

**Geographies of transnational adoption:
demographics, regulation, economics and
representation.**

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Abstract

This PhD project addresses the political, economic and cultural geographies of transnational child adoption. The research conducts a detailed exploration of two key elements with this complex and rapidly evolving practice of family development. First, it examines the legal and fiscal transactions that are required for transnational child adoption (TNA) within key receiving countries. Focusing on TNA practice trends within the US and UK, it explores the regulations and economies of this unique family building process on local, national and global scales. The aim of the research is to accurately describe the political economies and geographies of TNA receiving families residing in the UK and the US. Secondly, this project explores key debates within public discourse around reproductive options that inform the rhetoric around receiving families as distinctly 'modern' family formations. It addresses the ways the new practice is differentiated, normalised or negotiated in relation to both understandings of the family and relatedness as well as wider issues of multiculturalism, transnationalism, social capital production and the technical intensity of modern reproductive practices. In particular, this work considers the extended geographies of receiving families that are conventionally represented in relation to notions of relatedness and family through ideas of intimacy, closeness and proximity.

This thesis responds to an urgent need for more updated and comprehensive quantitative, qualitative and legal research on the recent escalation of TNA in comparison with other globalized family building alternatives that have similarly broadened in parental accessibility over the same period. Based on a critical review of current TNA practice, this research explores how and why TNA has become a contested topic of public discourse and increased in cultural visibility in excess of its numerical significance relative to other forms of family formation.

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Dedication

This effort is dedicated, ultimately, to the cherished memory of Arnold D. Grant Jr., Dorothy Mae Grant and Warren Littlejohn, to the living inspiration of Daisley C. Gordon and Edith Johnson, to my wise advisers Catherine, Bronwyn and Alison along with the Queen Mary School of Geography, to my nurturing advisers Beverley, Gil, Carrie and Angela at IGRS and to all the 'stumbling monks' who have illuminated my path, Patti, Lynn, Louie, Jayani, Cristen, Otilia, Sean, Isa, Roxy, Flopi, Scott, Lisa, Bill, Ben, Jia, Ann, Robert, Staci, and Carla.

Table of Abbreviations

Adoption History Project (AHP)

Adoption and Fostering Information Line (AFIL)

US Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Adoption and Foster Care Analysis and Reporting System (ACF)

American Medical Association (AMA)

American Society for Reproductive Medicine (ASRM)

Association of Legal Writing Directors (ALWD)

British Association of Adoption and Fostering (BAAF)

Center for Adoption Medicine (CAM)

Centers for Disease Control (US) (CDC)

China Centre for Adoption Affairs (CCAA)

Department of Health and Human Services (US) (DHHS)

Department of Children, Schools and Families (DCSF)

Evan B. Donaldson Adoption Institute (Donaldson Institute or EBD AI)

European Society for Reproduction and Human Embryology (ESHRE)

Hague Conference on Private and International Law (HCCH)

Human Fertilization and Embryological Authority (HFEA)

InterCountry Adoption Centre (UK) (IAC)

Office of National Statistics (UK) (ONS)

National Adoption Information Clearinghouse (NAIC)

United Kingdom Home Office, Border Agency (UKBA)

United Nations (UN)

United Nations Educational Scientific and Cultural Organization (UNESCO)

United Nations Statistical Division (UNStats)

United Nations Convention on the Rights of the Child (UNCRC)

United Nations Declaration on the Rights of Man (UNDRM)

United States Citizenship and Immigration Services (USCIS)

United States Department of State (USDS)

Chapter 1

Introduction

Adoption is ‘the creation of a parent child relationship by judicial order between two parties [who usually] are unrelated’
(Handbook of Family Law Terms, 23, Bryan A Garner, Ed. 2001)

This PhD project addresses questions about the modern practice of transnational adoption (abbreviated throughout this work as TNA)¹ with the ultimate aim of initiating a comprehensive examination of its varied geographies as well as the geographies of a broad category of other, similarly globalized reproductive alternatives. To date, only a small number of cross-disciplinary works, primarily in areas of social science and the law, have aimed to extensively evaluate the myriad recent changes occurring in this over 50 year-old practice. Very few of the general studies on adoption or on other forms of modern family building have included more than a precursory review of the critical processes required to complete this practice. Aside from a few notable exceptions, such as the numerous studies of Selman (2000, 2001a, 2001b, 2002, 2006, 2009) and Selman and Potts (1998), that primarily examined the between the rates of infertility within primary child receiving EU member nations and the US and the correlating changes in TNA levels, virtually none of the research on family building has taken a geographic approach to analysis. To address this gap, this project aims to analyse the geographies of this universalized and rapidly

¹ Within this work, I interchange use of the terms transnational adoption (used in global studies research and legal briefs), intercountry adoption (a UK-based term), and international adoption (a US-based term) unless describing a significant, area-specific variation in the universalized child placement process that are substantively the same in routine cases. That said, I give preference to use of the descriptor *transnational* because it more aptly supports this project’s aim to explore the political economies of a global population. Additionally, the core aim and theoretical scope of this study does not specifically include comparisons of child welfare semantics among the primary receiving nations.

evolving reproductive method through a detailed assessment of the current legal, economic and cultural factors that routinely shape the majority of child placements for UK and US families. On a theoretical level, this work is an effort to investigate widely held presumptions that TNA is a statistically marginal practice that creates an inconsequential population of immigrants within receiving countries. The existing approaches and methods used to research this practice have not resulted in research that either challenges or affirms these suppositions. One reason for may be that very few studies have directly interrogated these claims through a comprehensive review of all practice scales. Another reason may be that few works evaluate the possible changes that accrued growth of this immigration type may have had on the family populations of receiving countries. In my view, the absence of research in these areas is striking, especially given the long history of UK and US families engaging in this practice. I argue further that the continued failure to accurately and comprehensively review the current practice will, in the long term, seriously impede the capacity of policymakers to develop well-informed social and family policies aimed at regulating this complex, multi-scaled method of reproduction.

In a precursory survey of the global practice, derived from data compiled from the few reliable sources of information on the global TNA practice (which notably includes the United States State Department [USDS], the Australian Intercountry Adoption Network [AICAN] and several United Nations affiliates [UN]) I found several compelling opportunities for research on these topics. I present these avenues here briefly as an introduction to the investigations that I will pursue in detail throughout the project chapters. Based on a longitudinal survey of TNA child immigrations worldwide, I calculated that at least at 250,000 children, but possibly well over 500,000 children, have migrated for adoption over the entire history of this practice (AICAN, 2008). In 2004, the UN projected that nearly 45,000 children per year, on average, immigrate for purposes of TNA.

This organization also reported that the majority of adoptee immigrants are under the age of 5, although the adoption of children aged 5 to 17, commonly regarded within the social work profession as 'older' children, are adopted at much lower levels than infants or toddlers (1 to 5 years of age) (UNStat, 2004).

Looking at UK and US data alone, TNA child immigrations have shown a relatively stable growth rate of 5% to 10% between 1994 and 2008, the period of the highest quality recordkeeping. The US has placed more foreign-born children with families than any other country in the world (AICAN, 2009). Since 2002, the US has issued around 20,000 visas per year to children that are non-US citizens (USDS, 2009). In comparison, the United States Census Bureau reported in 2003 that the total US child population, aged 0 to 5, was around 24 million (USCB). The UK annual TNA levels have been much lower than the US levels over the same period. The British Association of Adoption and Fostering (BAAF) quoted that the UK government issued around 326 visas per year for TNA placements with UK resident parents. The UK Office of National Statistics (ONS) reported in 2003 that the total child population in the UK (aged 0 to 5) was approximately 4 million. Carrying this comparison further, these figures also show that the ratio of the number of TNA child immigrants to the total child population is virtually the same for the UK and the US. In the UK, population percentage of TNA is just under .07% whereas it is at a comparable level of just over .08% in the US. These findings suggest that while that the average number of annual TNA child immigrations to the UK and the US differ significantly, the size of the TNA child adoptee population, measured relative to the overall child population of both countries, is comparable. Rarely are the TNA practices of countries compared in this manner, and even more rarely are analyses of TNA based on TNA adoption ratios, which offer a more accurate means to assess practice prevalence across receiving countries that use different systems of categorization and family population measurement. A comparison of the UK

and the US ratios are very similar in level, even though the wide variation in annual numbers of child immigrations have caused multinational organizations and NGOs to rank these nations differently, relative to the group of top twenty child ‘receiving’ countries in the world (USDS, AICAN). Although most multinational reviews of the global TNA practice are generally accurate, this exercise indicates that limited data analyses may contribute to misapprehensions about the global practice in presumed levels of practice prevalence.

Evaluating the size of the global TNA practice another way, I found that the incidence of this family building method is not great, when compared to UK and US parental contracting for other popular reproductive methods. For instance, the estimated figures for UK and US natural child deliveries (widely regarded as a ‘traditional’ form of family development that also requires families to contract for assistance of external health care providers, birth facilities or hospitals, insurers, etc.) far exceeded the global levels for TNA. In 2007, the US Center for Disease Control (CDC) estimated 437M live births occurred in the US; whereas, in 2005, the ONS recorded an estimated 645K live births occurred in the UK. In comparison with the TNA levels, the US CDC reported in 2009 that use of assisted reproductive technologies resulted in 45,870 live births (deliveries of one or more living infants) and 60,190 infants. In 2008, the UK Human Fertilization and Embryology Authority (HFEA) attribute an estimated 12,562 births to the use of *in vitro* fertilization (IVF) procedures² (commonly grouped under the term assisted reproductive technologies or ART methods), which resulted in 15,569 children (including multiple birth deliveries). This data indicates that TNA adoptees are mere fraction of the total UK and US child population, as measured on global or national scales. A comparison of child sub-

² IVF figures include all IVF processes including intracytoplasmic sperm injection (ICSI), Pre-implantation genetic diagnosis (PGD), pre-implantation genetic screening (PGS), Donor Insemination (DI), natural cycles, treatments using donated eggs and those where fresh and frozen embryos were transferred in the same cycle.

populations produced by various reproductive methods verifies that methods of ART result in a higher number of children per year than the number of children received by UK and US families through TNA. Yet, this suggests that there is merit in assessing the similarities that exist between various technologically assisted reproductive methods. It also indicates the need for future studies on the impact that globalized reproductive practices have had on each of the main receiving cultures.

To provide an example of one possible approach to future research, I surmise that the total child population created by technologically assisted methods, measured as an accrued number of children beginning with the first verified test tube baby in 1978 (Walsh, 2008) to now constitute a statistically significant portion of the overall UK and US child populations. My argument is that there has been little regard for the overall number of families created by the set of family creation methods that are technologically dependent and regarded as 'modern'. Preliminary investigations into this uncharted area indicated the need to review a comprehensive range of data in order to evaluate the collective impact of technologically dependent reproductive practices. I found this particularly true to satisfy this project's specific aim to ascertain the relative size and varied impact of the TNA practice on multiple receiving cultures. The initial survey also indicated that the failure to evaluate the relative size of the international child constituency created by TNA, through more in depth quantitative practice assessments, may result in conclusions about TNA practice that are insufficiently comprehensive, narrow in relevance or potentially inaccurate.

This brief analysis as well as the various investigations of this project support my fundamental view that TNA, and similar types of international family building, form a relatively under-researched but culturally significant

phenomena. When TNA practice prevalence is evaluated in terms of the absolute numbers of child immigrants per country, the incidence of family placements can appear relatively low relative to the overall population of most receiving countries. Nevertheless, the absence of analysis for various reasons indicates that the actual cultural impact of this practice may disproportionately exceed what is suggested by a review of statistics from a single receiving nation. Based on the number of questions that remained unanswered through a quantitative review of the practice alone, my precursory survey clearly begged the need for a more detailed consideration of the legal and economic aspects of the international practice geography that underlie these numerical trends.

Much like the underrated similarities in the ratios of TNA adoptees and the relative size of the TNA practices, there is also evidence of several substantial differences in the policy positions of the UK and the US on TNA that have been largely omitted from extensive review. In fact, the policy positions of these nations on critical areas of TNA processes management are almost oppositional. In a separate but related manner, the UK and US cultural discourse around this nearly universalized practice is strikingly divergent and a review of cultural discourse around TNA component processes indicates that cultural reception to the practice by these two receiving nations is obviously dissimilar. Given these observations, I will launch a comprehensive assessment of TNA that not only necessitates the review of a broad range of available statistics but also must integrate quantitative findings to a greater degree than evidenced in assessments limited to certain countries, constituencies or processes.

In this project, I aim to survey TNA practice to develop, what I hope to be, a more accurate evaluation of the various practice processes than are currently contained in qualitative, legal and cultural analyses of this reproductive process. To show the possible benefit of such research, I cite a claim by the Evan B.

Donaldson Adoption Institute, one of the oldest adoption research organizations, that almost 15% of all child adoptions by the mid-2000s were transnational placements (EBDAI). Carrying this further, the EBDAI used this data to project the impact of the TNA practice on broader US family population changes. To express the potential impact of TNA, the EBDAI interpreted TNA data in light of the US Census 2000 reports on US family building patterns to deduce that approximately 60% of Americans have a personal connection to the adoption practice (USCB). Using a mixed quantitative and qualitative research methodology, this work similarly aims to evaluate changes in the TNA law, the required economics and discourse content across several indices that relate to key strands of research in human geography and related disciplines around notion of TNA receiving family political economies.

Comparing TNA Practice Trends across Receiving Nations

For practical reasons, I have elected to focus this analysis on a comparison between the TNA practices of the UK and the US. Most fundamentally, the UK and the US are regarded 'receiving' countries because both routinely receive far more children than they send for placement with families in foreign countries. In contrast, 'sending' countries routinely send out a greater number of children for placement with foreign families than they receive. Thus, the terms 'sending' and 'receiving' imply routinized patterns of child immigration and family building that have largely become an accepted means to differentiate among the global set of nations with families participating in this practice. Arguably, the TNA practices of the UK and the US have greater apparent similarity than among other receiving nations, such as those that are less populated or have extremely high per capita levels of TNA (AICAN; Selman, 2000, 2001a). Other similarities include the fact that both the UK and the US have similar lengths of practice

history, share common notions of humanitarianism and have maintained a comparable level of recordkeeping quality on families. Additionally, there are underlying similarities in their cultural traditions around families and overall approaches to governing their activities. The experiences of UK and US family populations who have elected to contract for TNA are sufficiently similar to support illustrative case study analyses of the subtle differences in practice processes and comparison of divergences in cultural responses.

Despite the specific similarities between the UK and US processes that I have used to form initial criteria for comparison, there are key differences in their national practices that provide fruitful grounds for the comparative analysis undertaken here. As an example, the national family policies of each country have long used similarly critical language to describe various aspects of the child adoption practice. Both UK and US laws contain language aimed at protecting the 'best interest of the child', which is now a standardized requirement for all legal child placements. This standard is set forth within key international laws that were developed to regulate TNA practices and specifically protect this class of migrating children from abuse. These two measures are the *United Nations Convention on the Rights of the Child* (1989) (UNCRC) and the *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (hereafter simply 'the Hague' or the 'Hague Convention') set forth by the Hague Conference on Private International Law (or HCCH). In spite of the UK and US adherence to a universal legal standard, their national policies govern the practice through variously configured laws.

For example, the required act of TNA contracting by prospective UK and US parents also constitutes a positive exercise of nationally and/or regionally conveyed legal interests. Here, I am most concerned with interests granted to protect the rights of individuals to reproductive choices, family privacy and

multiple forms of contracting under civil law. These interests are granted through various national and regional assurances. In the US system, the first ten amendments to the US Constitution (the 'Bill of Rights'), adopted 15 December 1791, protect the individual civil liberties of US citizens. The civil interests of UK residents are partially protected under the various provisions of the 7 December 2000 *Charter of Fundamental Rights of the EU* (Chapter II Arts. 6 and 7 regarding respect of liberty and 'respect for private and family life, home and communications' and Art. 9 'right to marry and the right to found a family'), the *Charter Social Rights* by the Economic and Social Committee [ESC], the EU Foundation for Fundamental Rights [FRA] and the newly enforced *Treaty of Lisbon* on 1 December 2009. The individual reproductive or civil liberties interests conveyed to UK and US parents are not identical, whereas children's welfare protections are globally standardized. This disparity, and the wide variations in TNA policy interpretation that I discovered in a preliminary survey of the law, appear to challenge the presumption that protecting an extended range of children's welfare interests is the most efficacious means to regulate reproductive activities. In my view, this evidence suggests the current governance may create undervalued differences in the interests of parties – and even substantive conflicts among them – that can ultimately undermine the fulfilment of the global, humanitarian intent of the practice.

Distinguishing TNA from other modern reproductive methods

Looking more fundamentally at TNA practice itself, I suggest in this project that differentiating the practice of TNA from other modern building practices is more difficult than suggested in either public or scholarly discourse. This difficulty exists because the intent assigned to the modern practice of international child adoption is inconsistent across scales. The purpose of the

TNA practice has evolved considerably from what was presumed at the time of practice inception as well as what is associated with domestic adoptions. The main forms of modern domestic adoption include the adoption of children from foster care, the adoption of state supervised looked-after children or kinship (or 'relative caregiver') adoptions, the latter comprising the majority of all domestic adoptions (Smith et al, 2006; DHHS, 2007). The general definition of child adoption offered above in Garner's Handbook of Family Law, a manual widely used in the US to interpret rules of family law, provides a woefully brief, uncomplicated and generalized definition for the range of 'adoption' practices within the UK and the US. While Garner's description sets out the most basic practice criteria under which children's familial and custodial status changes, it does not specifically speak to the concurrent mixture of humanitarian, medical, psychological and social interests that the international form of this practice often aim to satisfy. As opposed to domestic adoptions, the term transnational adoption (TNA) literally refers to the legal and permanent transfer of a child to a family with different national affiliations, cultural heritage, genetic makeup and frequently socio-economic levels for purposes of protecting 'best interests of the child' (UNCRC, 1989 Art. 3, §1). Yet, the definition of the practice, as stated within multinational law, details the circumstances under which the law comes into full effect but fails to assign a clear intent to this form of adoption (HCCH, Arts. 2 and 4).

The conceptual distinction of the modern TNA practice from its earlier form as well as from other contemporary forms of child adoption becomes clearer upon review of the practice origins and legal history. In the first recorded instances of child adoption, dating back over two thousand years to the era of the Roman Republic, the practice was devised with the primary aim of ensuring intestate heirs for the benefit of both the receiving family as well as the proximate community in which the family resided (Bridge and Swindells, 2000). Though

testacy may still drive parental interest in the practice, it is likely that parental reasons additionally include considerations of the global, humanitarian practice benefits.

Although the gesture of humanitarianism that pervades the understanding of TNA seems simple *prima facie*, this form of family altruism actually extends the scope of family interests far outside of the traditional areas in which they maintain their primary national civic affiliations and responsibilities. Additionally, families who altruistically elect to expand the scope of their intimate family building activities to global scales are required to pay high financial costs. Unlike either domestic or inter-familial adoptions, the current TNA process requires direct familial interaction with sending country governments and demands they contract for the various services of social work professionals, legal counsels and governmental agencies in order to finalize child selection and placement. As a result, the current estimated gross costs for the adoption of a single child currently range between \$10,000 and \$50,000 for parents residing in the US and between £3,000 and £10,000 for families residing in the UK. Fuelled to some extent by receiving country concerns around chronically low replacement birth rates, national policies have increased legal permissibility around a range of reproductive technologies. Read together, these factors evidence the transformation of TNA from a relatively rare humanitarian gesture into a routinely contracted for, highly regulated, and economically intensive practice.

Aside from the financial and legal practice requirements, other historical indicators also suggest that the purpose of the modern TNA practice may be less well-defined than is suggested within some of the current cultural discourse and analyses of its evolution. The initial reports of conditions following World War II and the Korean War in the 1940s and 1950s, resulted in an increased level of

public awareness about the toll of political conflicts, natural disasters and chronic impoverishment, particularly upon the vulnerable and politically underrepresented populations of children, women, ethnic minorities, political refugees and others (Bridge and Swindells, 2000). The rise in cultural awareness around child abuse incited lawmakers at all levels to draft humanitarian measures such as the *United Nations Declaration on the Rights of Man* (1946). This, in turn, necessitated the development of international civil regulatory organizations such as the Hague Convention on Private International Law (HCCH), multinational organizations that took over responsibility for expanding the scope of child protection measures in the mid to late 20th century.

The practicalities of family engagement in globalized altruism are complex and a transformative aspect of this family development method. One aim of TNA governance is to prevent the family building desires of prospective parents from infringing upon the welfare interests of children in any way. Given the need to maintain TNA process transparency, this altruistic family building method requires parents to make substantial economic expenditures, to use various technologies (for transportation, communication and parental verification) and to comply with strict international standards. Viewed on the local level, critical differences exist in the ease with which prospective parents complete family placement. In the UK and US for instance, I found varying levels of access to financial and professional assistance or technologies that are now essential for critical components such as child selection, process cost management or family approval. Therefore, even with the inclusion of child welfare rhetoric that emphasized the stated humanitarian goals, measurable variations still exist in process stringency and the baseline costs of TNA for parents residing in different receiving countries. In my review of the legal economies of the global TNA practice for UK and US parents, I will analyse the

absence of a consistent cross-cultural or legally recognized motive for TNA as a critical aspect in the legal geography of the modern TNA practice.

Reviewing the Core Project Components

While I do not mean for my approach to imply that the family unit or family law must be statically defined, I aim to question within this work the accuracy of traditionally held conceptions about modern TNA processes. Based on recent studies that maintain the existence of regional variations within adoption practices, I interrogate the absence of quantitative practice studies aimed at verifying the conclusions that segment national or regional practice views from international and family level understandings (Gross and Sussman, 1997). In addressing research questions around such variations, I conduct a formal analysis of TNA practice regulation and review the issues of law that surround national interpretations of the global standard. In the end, I explore the tendency of national policies to preference very distinct views on the required practice economies over an acceptance of the globalized notions of altruism. I then investigate perceived differences in the political economies of receiving families to suggest that national interpretations of international law can help to differentiate the figuration of families across similar types of newly globalized reproductive practices.

Arguing that existing research on TNA governance, and the global regulation of reproduction more generally, has failed to address potential conflicts of rules across practice jurisdictions, I undertake an original assessment of TNA legal geographies. The primary intent of this review is to contribute to existing research on various geographies of law (as in Blomley, 1994, 2001, 2003;

Blomley et al. 2001; Freeman, 1985, 1999, 2003) but it also has the secondary intent of setting up a framework for more explicit studies of reproductive governance in the future. To support progress towards the second aim, I set forth the notion that TNA is merely one of several forms of modern, internationalized reproduction that have become increasingly accessible under the law to parents residing in economically developed countries. Thus, considered more broadly, my study constitutes a focused effort to initiate much needed research on the legal and economic geographies developing around a rapidly evolving class of globalized reproductive processes.

As a critical component of this geographic analysis of the law, I consider the challenge that various national interpretations of the law pose to the continued efficacy of this aging method of reproductive governance. Throughout this assessment and my qualitative analysis of receiving family demographic characteristics, I develop the argument that the law contributes to a differentiation in the political economies TNA receiving families. Yet, a review of evidence indicates the negative effect of interpretive variations may be undervalued because it is cloaked in the rhetoric that espouses equality and practice legitimacy. In contrast with most analyses, I posit that the current law generates a substantive conflict of interests within receiving families that does not support the overall intent of the law. Although these laws establish universal standards for children's welfare through an explicit extension of a comprehensive range children's rights via international human rights law, localized patterns have also evolved in the years following ratification that threaten the global practice aims. The manner in which these new, local family building patterns relate to fulfilment of the intent assigned to the practice on global or national scales merits further consideration in geographically focused research.

In an effort to heighten the immediate applicability of this work in ongoing TNA practice policymaking efforts, I develop the argument that the ambivalence around the perceived intent of TNA may ultimately contribute to detrimental conflicts in the laws across jurisdictions that reduce efficacy of family policies across practice scales. After my formal review of the rules of law, I then go on to consider evidence of its application the UK and US national contexts. This practical analysis draws in broader issues of legal equity, justice and the politics of difference within reproductive practice governance (Young, 1990). As a part of this original examination of TNA governance, I respond to immediate policy needs to sensitively include notions of legal pluralism in nascent areas of international family law (Santos, 1987; 1995, 2007b), as well as to challenge the unregulated, and potentially discriminatory, perpetuation of a 'rights regime' (Sunstein, 1990), which I suggest is endemic within humanitarian law.

These larger theorizations of the law directly inform my subsequent examination of the economic geographies of the TNA practice. In particular, I literally compare levels of parental access to TNA across the UK and the US and present arguments for recognition of economic commensurability across the diverse collection of modern reproductive methods based on the various articulation of microeconomic theories on the family developed by Gary Becker (1981) and others. Drawing also from the works of legal economists and social economists (Margaret Radin, 1996; Viviana Zelizer, 1981, 1985, 1994; Deborah Spar, 2006) I assess the political economies of receiving families and the economic geographies of the global practice of TNA.

The need for further study of transnational forms of child adoption is arguably more critical now than ever, based on two initial observations that I made about the practice. The first observation is that TNA has recently become a topic of heated debate within receiving cultures, possibly to a greater extent than

other reproductive methods. I found UK and US responses to TNA to be polarized in ways that strongly suggest disparate levels of parental access to contract for necessary child placement assistance (Bartholet, 1999b; Bartholet and Hall, 2007). Even with heightened awareness about the circumstances of children who are unable to receive adequate levels of care and the virtual unanimity of global support for the standardization of child welfare legal protections, there is evidence of lingering doubts about the merits of this practice among receiving cultures. The national debates on the sovereign and global benefits of this family building method have not been resolved, in spite of the extensive efforts by multinational organizations such as the United Nations (UN) and the Hague Convention on International Private Law (HCCH) to universalize child welfare standards and monitor TNA practices. The second, and most surprising, observation was the lack of in-depth analysis of the actual quantitative and qualitative impact of TNA on receiving countries or about the characteristics of the global population of receiving families. Therefore, a key motivator for this project was the clear evidence of differences in cultural receptions to the TNA practice and receiving families but also the equally evident absence of critical practice analysis. This project exposes national interpretations of the international law to analyse hidden biases, and even divergences, in the cultural interpretations of this family building method.

I found that many depictions of TNA within mainstream print and visual media imply levels of practice prevalence that were unsupported by findings drawn from detailed population analyses, comparative reviews of cross-jurisdictional policy or assessments of possible economic factors. For instance, the practice of TNA is depicted positively overall within US cultural discourse. For example, a Boston area public broadcasting network is considering production of 'Adoption: An American Revolution'. When complete, the television station will air a 2-hour documentary-style film based on Adam

Pertman's book Adoption Nation: How the Adoption Revolution is Transforming America (2001). In this documentary, Pertman will continue stress the humanitarian value and social utility of TNA for parents who are suffering from medical conditions of infertility or hold strong commitments to global affairs. As with many accounts issued from US sources, his rendering of the TNA practice emphasizes positive and progressive practice aspects pertaining to global social responsibility that are routinely associated with this family building method. At the same time, Pertman's depiction will omit excessive details on the onerous aspects of cost intensities or regulatory complexities.

In contrast, many UK reviews depict TNA in a comparably more ambivalent manner by explicitly including details on less favourable aspects of the practice. For instance, in the 5-part radio series 'Mum's the Word', created in tandem with the UK National Adoption Week for BBC Wales (November 6-12, 2006), reporters deliberately recounted a range of practice experiences. Over the course of the series, each episode exposed key points of cultural sensitivity around contemporary processes of domestic as well as intercountry child adoption. In detailing the differing perspectives of grown-up adoptees, the birth parents, social work professionals and receiving families in the UK, the show presumably intended to present an authentic range of responses to this practice rather than a singularly biased viewpoint (BBCWales.co.uk).

In contrast to 'Mum's the Word', other UK accounts feature some of the more contentious aspects of TNA and emphasize practice abnormalities such as process irregularities in sending or receiving countries, the potential for abuses to occur with children or unsuspecting parents and the plight of child victims. As an example of a negative depiction, a BBC series 'Inter-country Adoption: Trafficking Children' was featured within a 2007 'Global Crime Report Series'. Unlike the more informative approach to reporting suggested in the earlier

'Mum's the Word' account, this exposé outlined the conceptual connection between legal TNA processes and illegal forms of child immigration such as trafficking. By juxtaposing reports of the legal and illegal forms of child migration, the series inaccurately implied a similarity between the two forms of child migration. Viewed culturally, the pairing merely repeated a dominant theme within UK public discourse that the required financial exchanges of TNA are identical to a 'baby sale' of adoptee children across national borders. Although not stated explicitly within either report, I investigate the cultural tendency to confound TNA with illegal child migration practices within the final chapter's review of the discourse of receiving countries. In this study, I explore the agency of presentational formats, the actual content of the discourse and the influence of reporting tone in shaping extant cultural views on the practice.

Not only are there evident variations in the cultural reception to TNA but also there are extreme variations in the national characterization of the actual families who opt to build families through this method. In my research of the emotional and relational geographies of TNA, I explore the characteristics of receiving families that imply evaluations of the required economic or regulatory intensities of the practice. In my examination of cultural family figurations, I explore several moral and socio-economic characteristics commonly associated with TNA receiving families as a means to tease out and examine aspects of their political economies. Drawing from a cross-disciplinary group of scholars who have theorized on topics such as the modern family and kinship structures (Strathern, 1991, 1992a, 1992b; Carsten, 2000; Dorow, 2006; Edwards, 2000), cultural responses to advances in reproductive technologies (Franklin, 1997; Franklin and McKinnon, 2001), and the diversification of globalized family types (Blunt, 2007; Coutin, 2003; Katz, 2004; Bauböck, 2006), I will critically review receiving family narratives as recounted through video, image, television and written news media formats.

I examine the dominant and recurring depictions of receiving families within the UK and the US as part of culturally specific family narratives. Given the difficulties in generating accurate cultural views on this international family population, I turn instead to explore the agency of cultural memories as an under-explored component within the cultural views on this family constituency. For instance, the opinions of celebrity transnational adoptions range from praise for their humanitarian support for needy children globally to outright denouncements of their personal family creation decisions as ‘vanity projects’ (Wark, 2008; Hooper, 2006; Pool, 2006). Viewed on a national level, both UK and US media present varying sets of stories of the adoption processes in sensationalized paparazzi news reports about well-known figures, who have elected to build their families through TNA. Some of the most frequently-talked about adoptions have included those by US-based actors Angelina Jolie and Brad Pitt (colloquially referred to as the ‘Brangelina’ family), UK residents Madonna and Guy Ritchie, the two adoptions by UK politician and Minister of Parliament David Miliband (Hughes and Clark, 2005; Brogan and Koster, 2007) and Madonna’s attempt to adopt a second child as a single-mother (Pool, 2006). In both the ‘Brangelina’ and Madonna adoptions specifically, I will analyse the minute-by-minute updates of personal and court trials, pop opinion polls and very incisive television interviews (Wark, 2008) as expressive of cultural memories and narratives around family building.

At points, the UK and US national views on TNA have diverged so considerably that court trials and media wars have ensued. One example of such a heated contention occurred in the highly publicized *Kilshaw v. Allen* (2001) dispute between a UK and a US set of prospective parents with each vying to adopt the same set of twin infants from an internet-based adoption agency. The ruling of the international trial resulted not only in the award of the twins to the

US Allen family but also incited then Prime Minister Tony Blair to reverse the overall UK policy stance on TNA in his 2001 *Adoption- A white paper*. In addition to imposing significant restrictions on access to cost knowledge and independent contracting for TNA, this governmental switch signified a point of change in the tone of public rhetoric around this specific practice. My evaluation of these various events brings into play several compelling themes that have developed in the emerging area of cultural memory studies (Radstone and Hodgkin, 2003, 2006; Halbwachs and Coser, 1992). In particular, my assessment of the evolving geographies of families and transnational kinships is inspired by a narrative analysis of families as redemptive (Butler, 1997), agents of social recall and reclamation (Chomsky, et al. 2001; Appadurai, 1998) and, conversely, exemplifying various modern forms of forgetting (Adorno and Bernstein, 2001; Forty and Küchler, 1999).

Throughout the substantive practice reviews contained in each chapter, I will develop the claim that dissimilarities in the understanding of scale have resulted in different evaluations of the TNA practice in the UK and the US. In the end, I see the different notions of political, regulatory, economic and social aspects of TNA communicated through multiple channels and scales of public discourse to divide this universalized practice into discreet areas. I maintain the possibility of critically examining across these areas to arrive at a more accurate understanding of the practice than is presented the typical characterizations of receiving families. I found this research approach to be particularly informative in light of the frequency with which the presumed similarity in UK and US cultural and political contexts actually obscures some of the less apparent, and arguably considerable, divergences in national TNA practice regulations.

Detailing Research Imperatives and Practical Applications

As a global reproductive practice, TNA necessarily differs from domestic methods of family building in regulatory processes, the required types of family assistance and the levels of financial expenditure. Nevertheless, much of the current research on TNA entrains with tendencies within UK and US cultural discourse that downplay, or even attempts to negate, the apparent interfamilial differences of ethnicity, genetics and heritage that result when the location of origins differ between child adoptees and their receiving families. I respond directly to the perceived neglect of scale that I feel now limits much of the existing research by engaging in a detailed study of the political, legal, economic and cultural components of these families that seem, to me, to tacitly articulate very evident geographic differences within TNA families. In this thesis, I will use the term 'geographic differences' to refer to the varied places of origin, and the related issues of ethnic and physical difference. These differences are common to families formed through TNA. In my view, the lack of value assigned to the multiple scales of the practice contributes to the failure of existing studies to generate accurate and comprehensive analyses of the complex and multi-scaled political economies of receiving families.

For instance, some sociologically or anthropologically based studies evaluate TNA as primarily a local act of family decision-making. While public discourse or research within scholarly disciplines has not primarily aimed to generate a multi-scaled evaluation of TNA, the complexities of multi-scaled reproductive governance has received some attention within professional social work practice reviews (Roby, 2007; Shapiro, et al., 2001; Triselotis, et al., 1997, Wegar, 2000). The reviews of social workers expressed concerns around the heavy influence their practical responsibility has on the interpretation and execution of international law within local child placement decision-making. For

example, Mariam Reitz (1999), psychologist and social work professional, articulated her reservations about the current application of the global law on activities at local levels. Reitz states that although TNA has humanitarian value there is also a need for further research on the cultural, political, economic and legal motivations for, what she terms, the 'groundswell' of intercountry adoptions now evidenced in countries with varying lengths of practice tenure and size (1999, p. 328). In the same vein as Reitz's comments, demographer Peter Selman contributed to an international conference entitled 'Adoption – an old idea in a new era' in 2000, sponsored by the BAAF, in which he launched discussion about the impact of national variations in the TNA regulations of ratifying states on family development trends (2000, p. 191). Although this international meeting did not arrive at definitive conclusion on the potential effect of policy variations, the fact that the meeting occurred testifies to the growing, as well as broadening, areas of regulatory concern.

Other approaches to adoption research, exemplified in the humanitarian based research of Madeline Freundlich (2000a, 2000b) or social geographer Stuart Aitkens work on children's geographies (2001, 2004), essentially reject the value of cultivating specifically regional or nationally generated processes. Instead, I believe these researchers mistakenly leave out a critical area of regulations by favouring approaches that exclusively value local or, alternatively, international scales of practice review. In response to the frequent omission of comparative research on the national and regional forms of family building regulation, I have aimed in this project to focus examination on measurable variations in TNA processes across local, regional, national and global scales. I base my approach on the approach to comparative and 'evidence based policy research' furthered in Carling, et al., (2002), Sargent (2003) and selected research sponsored by the European Society for Human Reproduction and Embryology (ESHRE) and the demographic and family research conducted by the Max Planck Society for the

Advancement of Science. I believe strongly that assessing only a single scale of this international process fails to generate analyses that are sufficiently comprehensive to provide an accurate rendering of this practice.

Therefore, in an effort to better understand the various geographies that have developed around the patterns of child migrations, exchanges and regulations of this practice, this research intends to explicitly analyse processes that are routinely required to complete this unique form of globalized family building. It is an endeavour to further develop the theories of geographers, anthropologists and reproductive theorists such as Sarah Franklin (1997) who have applied the expression 'postmodern procreation' to describe this emerging category of tradition-defying and techno-global reproduction. In departing from existing examinations, this project specifically interrogates the dependency of TNA upon complex and varied sets of spatial exchanges as critical to a comprehensive analysis of this important practice. Since these overlapping exchanges draw political, legal, economic and cultural elements within this family building process, my research looks closely at the geographies created in these areas as pivotal means to generate a more accurate depiction of the current practice and its actual evolution away from more traditionally-dictated notions of family building

Reviewing the Primary Objectives and Methodologies of this Research

To launch this multi-part examination, this introduction suggests a variety of significant and underexplored topics in modern reproduction that will be examined in this innovative, geographical research on TNA. The imperative for this research is founded in the reality that any family placement of a child across

national borders requires a diverse set of practices and compliance with laws across various scales. On one hand, this involves an exploration of these practices as situated among already discernible topics within current public discourse or academic study. On the other hand, I expose discreet TNA processes that have heretofore received little research attention or have been virtually omitted from certain scopes of enquiry, thus requiring deft conceptual inclusion into various areas of existing scholarship across closely related fields.

Therefore, the overall goal of this research project is to make an original theoretical contribution to the study of human geography by addressing three primary research objectives:

- to add to the existing theoretical study of intercountry adoption through quantitative and qualitative research;
- to employ a geographically sensitive research methodology to theoretically innovate the analysis of the TNA practice, and;
- to make a theoretical contribution to established and emerging branches of human geography through analysis of intercountry adoption as a case study.

To meet these objectives, my research will critically engage with several branches of human geography that correspond to various aspects of the TNA process which I will review within four substantive examinations. The first is a survey of the global population shifts and demographics of receiving families in a comparison of UK and US as well as other key receiving countries. The second is a formal review of current TNA international law in reference to UK and US national adherent policies. The third is an analysis of TNA cost and evaluative economics that include both a family cost typology as well as comparative study

of changes in necessary evaluative techniques around reproductive technologies. The fourth, and final examination, is a cultural review of events widely depicted throughout UK and US popular media and cultural discourse that speak to shifts in the cultural memory of TNA and the 'modern' family. These interrelated study areas work within traditional geographies of economics, politics, feminism, development, migration and the law. Yet, this research will additionally explore concepts from emerging areas of human geography involving children, relatedness, transnationalism and emotions. The explicit consideration of TNA within both traditional as well as developing areas of concern constitutes a new area of research within these sub-disciplines.

With the aim of making an original contribution to several areas of ongoing geographic research on transnational families, I have used a grounded theory approach that sets this research apart from many existing works. I evaluate underexplored areas of this culturally debated practice through an embedded mixed method, quantitative and qualitative, study. Grounding my qualitative examinations in a quantitative review of practice facts, I quantitatively review the practice, the populations and the cost statistics that indicate trends in UK and US family building levels. I use the findings from this study to found my qualitative theoretical exploration of the geographies of relatedness, created by a universally regulated method of family building. The main evaluative methods I will use within this project are: a critical review of research on intercountry adoption, developed within related disciplines; an assessment of the current state of the practice through a quantitative analysis of child immigration and family building statistics for the UK, the US and other primary European and Asian receiving countries; a typology of routine financial exchanges in TNA family building; a comparison of placement process technologies and reproductive service sector industry growth; a comparative legal analysis of UK and UK national practice regulations; a qualitative review of

cultural discourse about TNA; and a critical theoretical evaluation of key concepts within the trend and a comparative review of TNA in relation to closely related topics of human reproduction and migration.

Since one of the primary objectives of this work is critical innovation - both within sub-disciplines of geography as well as across related fields - I aim here only to suggest compelling avenues for a re-conceptualization of the practice that would further more detailed ensuing research work. I insist here, based on a survey of existing works on the topic, that the current conceptual constructs used to evaluate TNA actually inhibit examinations of the practice that are more comprehensive in scope. Therefore, I view this project as an initial exploration of practice complexities that suggest new methods and approaches to examining TNA as global act of humanitarianism, a very personal process of human reproduction and an expression of nationally or regionally conveyed civil liberties. This effort especially engages anew with assumptions about familial spatialities, or what I might call family activities that cross multiple geographic scales, that I believe the modern TNA process may confound. By this, I refer to the use of an international practice to support intimate desires for relationship building and contracted choices with the aim to expand current consideration of largely overlooked inequities and ethical tensions, particularly around questions of directional flows, access to knowledge and representational content.

In the end, my study assesses the ways in which TNA is at once a traditional form of human reproduction, a new use for material technologies and economies as well as a new form of social production, which has fundamentally changed the notion of kinship within the receiving cultures. Ultimately, this work explores connections between the current perceptions of TNA and larger, still unresolved, concerns circulating in these receiving countries. These engaging dilemmas revolve around what constitutes a 'modern' scale of family

privacy or reproductive norms as well as the necessary scales of ethical family obligation to aid the category of vulnerable children who are potential transnational adoptees.

Chapter 2

Situating a Study of the Transnational Adoption and Receiving Family Geographies

The Necessary Inter-disciplinarity of TNA Literature: imperatives for reading across disciplinary confines

Transnational child adoption is now one of several globalized methods of reproduction prominently featured in UK and US media accounts, scholarly works and public discourse. In contrast to more recently developed reproductive practices like surrogacy and *in vitro* fertilization, which became an accessible option only in the late 1970s (BBC News July 25, 1978), TNA is a much more mature reproductive method that has existed since the Second World War (Doss, 1949, 1954). While receiving country exposure to and familiarity with TNA is potentially far greater than other forms of 'modern' family building, there remains a surprising lack of detailed research on changes in the multinational practice of TNA since its inception. In particular, the absence of research is most conspicuous in such areas as longitudinal patterns of child immigration, process cost configurations, and interpretive variations in the law across different national jurisdictions. A 2008 report published by the Evan B. Donaldson Adoption Institute, a leading source for statistics on child adoption in the US, estimated that between 30,000 to 40,000 children per year immigrate for family placement worldwide, which indicates that the accrued number of child placements has likely resulted now in a significantly sized receiving population. According to the Evan B. Donaldson Adoption Institute, around 265,677 US citizens adopted foreign-born children between 1971 and 2001 alone (EBDAI, 2006). Over a comparable period, the National Office for Statistics, UK,

Adoption Statistics Historical Series, 2009 recorded that child adoptions (both domestic and international types) were only 3% to 6% of methods used annually in the UK from 1974 to 2009 (ONS, 2009). In both nations, the relative number of TNA placements is not sizeable relative to the overall family population of either receiving country, although I believe the receiving populations produced by the practice now might be statistically significant.

Speaking to the need for further research on receiving family national populations, I found that little research attention has been directed towards an assessment of the accrued number of TNA receiving families as a variable proportion of the entire family population of receiving countries. Several studies of reproductive practice depictions indicate that the level public exposure to TNA may be disproportionately higher than the actual size of the TNA family population. In some reports, the depictions are biased in ways that suggest imply that TNA occurs more frequently within both countries than is proven by a statistical review of the practice. In other accounts, the cultural discourse disproportionately features the contentious and complicated aspects about TNA placements rather than the normal, uncomplicated processes, as affirmed in the analyses of media depictions of adoption by Fischer (2003), Kline, et al. (2006), Wegar (2000). Reporting biases can be seen to add to the cultural ambivalence about TNA and challenge valid evidence about the quotidian nature and relative infrequency of the practice. For example, I cite conclusions about adoption published by the EBDAI that states approximately 58% of Americans have direct knowledge of child adoption (i.e. know an adopted person, have received a child or have relinquished a child for adoption). The EBDAI conclusion accurately implies that this reproductive method is more ordinary than is suggested in many sensationalized media accounts (Donaldson Public Opinion Benchmark Survey, 1997). Yet, their interpretation of data does not go far enough in explaining that although receiving families may be prolific in number, the

receiving family populations may be densely concentrated only in certain areas of receiving countries.

To verify the accuracy of the reported content, I found very little scholarly research on the TNA global practice trends. For the most part, social science researchers, often due to conceptual or disciplinary confines, have primarily confined their studies to research on smaller practice scales. Additionally, most research on adoption is derived from ethnographic research methods, one of the most commonly used and traditional approaches to researching families. Frequently, ethnographic research does not include an extensive review of quantitative data on the global practice, explicit interrogations of rhetorical terms used to refer to processes or verification of the accuracy of practice depictions. Based on the lack of in-depth practice research and verification of practice pervasiveness in both the UK and the US, there is now an imperative to create a more comprehensive review of this practice. There is a need for study of the legal and social patterns occurring across the various global practice scales.

To initiate a mixed qualitative and quantitative evaluation of TNA that is more comprehensive than most practice studies, I situate this study of TNA geographies amidst a broad range of cross-disciplinary works on TNA. Each resource reviewed here informs my research on receiving family populations, national regulations, economies and required technologies, which, as I argue, and will demonstrate are essential aspects of this global practice. In sum, this project is an effort to address deficiencies in the accuracy, approach and comprehensiveness of existing research on TNA geographies. Very little of the existing research presumes TNA to be *a set* of varied economic, legal and/or cultural processes. Instead, most works assume the practice to be either an act of child welfare, family building, or exercise in civic rights. As a result, most studies focus on one aspect of the practice rather than exploring the

interdependence of the economic, political, emotional and physical elements that are required for child placement. In contrast with the majority of current research on TNA, this project aims to interrogate the cultural and academic assumptions about the TNA practice that, I firmly believe, have excluded extensive considerations of scale as a component of the complexity of the practice. Even further, I believe that the failure to acknowledge that the component of scale is critical to TNA has prevented accurate comparisons among 'modern' family building practices that are now available to prospective parents residing in the UK and the US.

Therefore, the primary aim of this chapter is to address gaps in the existing research on practice geographies through a survey of the current literature about this practice and closely related topics. As part of this literature review, I will also hypothesize on the potential reasons for the absence of extensive research on TNA and TNA receiving families, which I deem surprising in light of the long practice history and the proliferation of overtly sensationalized depictions of the practice within the media accounts of receiving nations. I will look into both the evident causes as well as explore some of the less apparent reasons for this gap in research. In order both to draw out key research findings from these works as well as to expose areas of deficiency that I address throughout the remainder of this study, I will particularly discuss the merits of various theoretical approaches to this TNA practice research.

Reading Distinct Theoretical Categories into a Diverse Conceptual Field

Although family building research combines several areas of social science scholarship, I have organized the field of available material pertaining to TNA into three primary categories of **Global Construction and Regulation of TNA Families, Commodification of TNA Family Building** and **Geographies of Modern Kinship** for the purposes of this review. To address gaps in existing research on the geographies of UK and US receiving families, I first explored works within the sub-disciplines of economic, legal and cultural geography before considering materials on TNA emanating from the related social science fields, the law, microeconomics and the humanities. The fact that few geographers have conducted detailed explorations of the closely related topics necessitated this approach. Among these are studies of family political economies by Duncan and Smith (2002) and Freeman (1984, 1999, 2008), demographics by Potts and Selman (1979) and Selman (2000, 2001a, 2001b, 2002, etc.), transnational populations in Bauböck (1995, 2006), transnational families by Blunt (2005) and Blunt and McEwan (2002). Given the dearth of geographic material on TNA, I strategically included resources from a wide variety of other disciplines in order to complete this multipart study of the geographic differences in receiving families. Drawing selectively from a cross-disciplinary set of works enabled me to build a more comprehensive and comparative study of families produced by this particular form of reproduction. The most useful of these works spoke to the complex political, civic and cultural comportment of receiving families caused by extreme disparities in the locations of origin between the receiving families and their foreign-born adoptees. In explaining my use of material within three resource categories for this literature review, I will introduce the key concepts contained within my substantive investigations across the four empirical chapters that follow.

Comparative Research of TNA Receiving Family Demographics

To found my quantitative analysis of the current TNA practice, I drew primarily from a small collection of TNA-specific research conducted in the areas of multinational fertility and family building studies by Potts and Selman (1979), Weil (1984) and Selman (2000, 2002, 2006, 2009); social sciences and epidemiology (Kane, 1993); models of fertility demography by Kostaki and Peristera (2007) and EU regional studies aiming to correlate average fertility rates with parental socio-economic levels (Sigle-Rushton, 2008). In contrast to other quantitative research on TNA that focuses on trends within adoption medicine (Miller, 2005) or psychoanalytical studies of families (Goldstein, et al. 1973), these demographic studies specifically assess the impact of this practice within and across multiple receiving country family populations. This category of works is also groundbreaking because they are among the few that integrate quantitative and statistical analyses to validate predictions in fertility trends, TNA family building levels and changes in the socio-economic characteristics of prospective receiving family populations. Yet, the chronic inconsistencies in national family building data and high levels of data incommensurability across receiving country records are a common problem within all works of this type.

In spite of the poor quality of data gathered for the TNA practice, a small group of quantitative studies do contain factually accurate analyses of the growth in international reproduction for several economically developed countries. Before enactment of the multinational laws, the data quality for TNA was too poor to complete a cross-national comparison of practice trends. In a study of TNA child immigration patterns attempted before the UNCRC, Weil (1984) tried unsuccessfully to study TNA demographics because, as he stated, the ‘worldwide availability of data on foreign adoptions is uneven in both quantity and quality’ (1984, p. 277–278). In a subsequent multinational study comparing

US and UK fertility levels and family building patterns, Potts and Selman (1979) innovatively related infertility levels to contraception usage and the practice trends for a limited range of reproductive methods. Within this pioneering comparative research, they found that increased infertility levels resulted in higher levels of contracting for particular reproductive alternatives. Initially, their work responded to concerns about population level management in economically developed nations, but their overall findings clearly suggested the need for more in-depth research on national, regional and global cultural changes that likely contribute to current reproductive contracting patterns.

The ratification of the UNCRC and the Hague Convention, multinational instruments that had the effect of improving national recordkeeping practices, which allowed Selman and Kane (2000, 2002) to conduct more detailed research on TNA families. Yet, inconsistencies in data quality across receiving countries have restricted both the analytical scope of their work and the validity of their findings. Despite this impediment, Selman and colleagues developed an innovative strategy for compiling data on reproduction. Their technique of multi-national reproductive research involved the consideration of data on a broad range of family building topics. Borrowing elements of their approach to complete this project, I especially note that Selman's research methodology supported an in-depth study of reproduction and infertility that are commonly perceived to be culturally sensitive topics. Most importantly, the methods used by Selman and within this project do not jeopardize subject confidentiality, a key cultural concern that has historically thwarted detailed research on the reproductive activities of UK and US families. To obtain the necessary data, Selman and Kane directly petitioned sending and receiving countries for longitudinal data on TNA for up to 10 a year period. Although they received a relatively high volume of quantitative information, the absence of

commensurability in national terms and categories prevented large scale trend forecasting that is normally only possible for studies of limited practice areas.

Additionally, the Hague convention mandates increased access to TNA data and aided Selman's most recent research. The Hague reporting protocols generally supported efforts to compile and make accessible a range of data on reproductive health care and family development patterns across various EU nations. This development has enabled researchers such as Selman to use more sophisticated analyses than in his earlier research and permitted new studies that compared TNA population growth trends relative to indices of family change (2006, 2009). Selman's most recent investigations created 'various measures of standardization which can be used to facilitate comparison' between countries and show trends over time (2006, p. 183). To describe the relative population density of receiving families, Selman developed the term 'adoption ratio', a weighted expression of the number of international adoptions to every 1000 live births (2001, 2006). With this standard term, demographers then compared the adoption ratios of various receiving countries to evaluate the relative impact of TNA on overall family development patterns for a common group of receiving countries. Both the use of innovative analytical methods and the heightened transparency of the practice generated by national efforts to comply with terms of the Hague Convention, enabled Selman to analyse data on larger scales than had previously been possible. These findings now support the statistical databases of social service charities (BAAF, 2002; et al.) and international lawmaking organizations (the Hague, the UN, the Overseas Adoption Support and Information Service, International Organization for Migration) among others. Most importantly for this project, Selman's research of TNA supports my integrated assessment of changes in family populations, national policies with social responses to TNA across the global group of receiving cultures (2002, 2005).

Selman's approach to TNA research suits this project's investigation into the possible parental motives for electing TNA, relative to other reproductive options. His works also support investigations of more fundamental questions about the influence of variations in the presumed practice intent that may shape overall practice patterns. As Selman states within several of his works, 'child adoption is not usually seen as a matter of concern for demographers, but rather an issue of primary interest to social workers, lawyers and psychologists and of secondary interest to sociologists and anthropologists' (2006, p. 1). Speaking from the perspective of a demographer, his research challenges assumptions that humanitarian motives for TNA are held uniformly across receiving family populations and remain consistently understood throughout the various placement processes. In my view, his work discredits the notion that the sole intent for this family development method is humanitarianism. His work contradicts the assumption the practice aims are consistent at all scales, in a manner that affirms this project's comparison of UK and US numeric trends. In sum, this quantitative research on TNA indicates a new means to verify differences in the perceived practice benefit across the national, familial and international scales.

While Selman's overall strategy of addressing data deficiencies through careful comparative techniques is unquestionably sound, I do not support his assumption that infertility is an equally powerful motivator for TNA within all receiving nations. I have two primary reservations about the validity of this particular deduction. First, Selman states that

A key motivation in receiving countries is the demand for children by childless couples who have not been successful with infertility treatment and who have faced a diminishing availability of young children for domestic adoption. For this reason, I argue the usefulness

of relating intercountry adoptions to the number of births in both sending and receiving countries' (2002, p. 206).

While his argument may be valid if the range of parental options is limited to adoption alone, I believe that family building decisions are more complex in reality than this comment suggests. The evaluations of families around reproduction actually depend upon a variety of motives that pertain to factors of access, availability of governmental support and national permissions granted for specific processes.

In exploring avenues to empirically measure TNA levels in relation to differing national social policies, media cases and cultural campaigns, this thesis explicitly considers factors outside medical diagnoses of infertility that may affect parental interest in contracting for TNA. The correlation between process costs and practice accessibility, I argue firstly, has a more significant effect on variations in TNA levels than Selman credits. As suggested by demographic research with families in the US, Australia, Canada and New Zealand, Lovelock (2000) describes intercountry adoption as a 'migratory movement' that is shaped and controlled by national policy. Lovelock implies that the motives for TNA include national needs for population replacement as well as the individual needs evidenced in medical pandemics of infertility. In a second point of dispute, I believe that Selman's research does not account for differences in the cultural reception to various reproductive practices. As I examine in my analysis of receiving family economics, I believe family assistance policies are a means for national governments to enforce their overall policy positions, particularly by incentivizing parents with cost subsidies or deterring them by fixing cost structures through bundling. Just as Selman's work is an innovative and unlikely departure from the existing studies on TNA conducted in sociology psychology, anthropology, I aim to evaluate the expanding pool of data available

on TNA (and related practices) to address subsequent research areas, primarily aimed at interrogating assumptions upon which the current categorization of this family group is based.

The International TNA Regulatory Regime and the Construction of Global Families

In the second substantive chapter of this thesis, I review the overall efficacy of the current regulation of global TNA practices, as it now operates through the universal extension the child welfare standards under humanitarian law. In examining the contribution of the law to the measurable growth in this particular family category, I review the terms of the UN and Hague measures and analyse the extent to which they fulfil their initially conceived intent. Without evaluating the law according to particular understandings of justice or equality, an approach to evaluation of the law taken by radical, Marxist geographer David Harvey (1996), I evaluate the current TNA governance through an investigation of the possible conflicts of law, the protections offered for the interests of parties and the consistency of legal intent across multiple practice scales. Since few works in legal geography have examine the rules of law governing family building activities in detail, I relied upon legal and policy studies that deal with the issues of law that specifically pertain to TNA family building regulation. These related analyses support the direct measure of legal the efficacy of the 'best interests' child welfare standard and an assessment of variations in the presumed intent of TNA law across international and national scales undertaken in this project.

To relate this study to themes in contemporary critical legal theory, I have considered works by a range of progressive legal thinkers on the rise of rights regimes, the cross-cultural conflicts 'best interests of the child' standard interpretation, and jurisdictional differences in legal intent. In drawing from a diverse collection of commentaries on the laws of international family building, I conduct a formally styled analysis of the multi-scaled law and evaluate its practice impact in the UK and the US receiving country jurisdictions. Since the family building regulation is a nascent area of law (Ball, 2002), I drew together material from other studies in geography, political theory and the law. The first area of literature enabled me to trace the legal history of the multinational law on TNA throughout the 20th century. My key aim for building a legal history was to analyse the evolution from the original legal intent to the global legal intent. The second area of works discussed interpretive variations in the universal 'best interests of the child' UNCRC legal standard language. The third body of works assessed the effect of the law on global TNA practice patterns and the potentially unintended conflicts of law generated across practice scales. To gauge the efficacy of the law in practical terms, these works prioritize evaluation of national policies (both sending and receiving) that affect the access of receiving families to TNA, as suggested in Calzada and Del Pino (2008). Each of these works includes examinations of the universal legal standards and the social policy positions of various countries to support a more original analysis of TNA regulation than currently exists within related legal, geographic or social science studies.

Very little research in legal geography has examined laws governance systems that span multiple areas of law. Currently, human rights laws, international private laws as well as family laws regulate the required processes within TNA. In a related evaluation of TNA governance, Philip Alston and Mary Robinson (2005) have examined the extent to which human rights ought to

inform regulations within areas of private law, economic development, banking and finance, judicial reforms, and other areas. My overall approach to evaluating the legal geographies of TNA is based on the works within Nicholas Blomley (1995), Blomley et al. (2001) and Holder and Harrison (2003), in addition to the writings of Blomley (2003; 1994) on the topic of spatial configurations implied by exercise of individual civil rights and the creation of a 'geographic imaginary' through law (1994). The most useful works within these volumes include studies on the geographies of private law (Jackson and Wightman, 2003; Blomley, 2003), the expansion of transnational state rule (Blomley, 2001), regulation of reproductive and biotechnologies (Delaney, 2003), the geographies of race and political power (Ford, 2001) and the regulation of movement in biological commodities (Parry and Gere, 2006). In suggesting possible connections between various areas of the law and geography, Holder and Harrison suggest a destabilization of 'the normativity and objectivity of the law' (2003, p. 5), which they understand to maintain static configurations between people and various types of property. As they imply, these works of the law have a common aim to interpret the geographies create by the transgressing or manipulating of conceptual boundaries. They suggest that such separations may contribute to the disparate treatment of families in situations where a clear legal intent is not recognized. Read as a group, these anthologies support an original review of events and facts in modern adoption law and permit me to conduct a geographically sensitive review of social policy that has received little attention until now.

Following my review of the issues of law, I further interrogate trends in TNA regulation by engaging with themes now circulating within critical legal scholarship and policy analysis. In my assessment of regulatory regimes and social welfare efficacy, I have regarded the works of social policy analysts, critics of universal rights regimes and comparative legal theorists. Based upon a review

of the arguments raised within these works, I challenge the current meaning of the term 'protected class' as it refers to children. I also look at the implied cultural specificity of the 'best interests of the child' standard as suggested in Na'im (1992), Breuning and Ishiyama (2009) and evaluations of the practical efficacy of children's rights within court decisions (Naffine, 1992). To approach a new study of the efficacy of the governance of local family building activities under global humanitarian law, I regarded the compelling works of comparative legal theorist Boaventura de Sausa Santos (1987; 1995; 1998; 2002; 2006a; 2006b; 2007). Santos has examined various aspects of legal pluralism and equity in global governance of populations across socioeconomic classes and areas of varied economic development. I also consider the works of feminist legal theorists such as Janet Dolgin (1999), Sara Dillon (2003) and Catherine MacKinnon (1989; 1994; 2007), speaking to notions of cultural and political agency, and the theories of critical legal theorist Cass Sunstein (1990) on 'rights regime' methods of governance. Drawing from the works of contemporary legal thinkers like Santos, I will support a comprehensive critical legal analysis of potential conflicts of law and the interests of parties within the modern processes of family creation.

Analyzing the Universalization of Children's Rights and the 'Best Interests' Policy

In this attempt to make a spatially sensitive analysis of the points of law, this work differs from strict legal analyses of current TNA legislation, as completed in Dillon (2003), or studies of judicial rulings on family activities, as in Ball (2002). Similarly, this analysis also differs considerably from discussions of children's rights presented by children's rights activists writing from perspectives of geography, as in Holloway and Valentine (2000), or social work

as in Hollingsworth (2003; 2008). Instead of interrogating the efficacy of TNA law only through a review of the 'best interests' standard application, I instead speculate on the practical efficacy of family policies that work primarily through an application of an international, normative standard, as per Dickens (2009), Carling, et al. (2002), Roby (2007) and Roby and Ife (2009). In an initial step towards future evaluations of the emergent reproductive practice regulation, I indicate paths of study that connect detailed legal analysis, assessments of practical impact and geographic theory.

Although my research explicates discussions of childhood legal agency now circulating within children's geography, I take a radically different approach from that taken within existing studies of this sub-discipline. Much of the recent geographical work on families, family building and children's rights has been conducted within the area of children's geography. Yet, a sizeable portion of this literature does not include an interrogation of family governance that aims primarily to enforce child welfare protections within the family building practices, as per Waites (2005), Wilson and Mitchell (2003) and Yorburg (2002). Therefore, my assessment of children's rights within the construction of receiving families is distinct from the approaches taken to legal research by children's geographers.

The approach to legal analysis by children's geographers, in my view, is overly occupied with various theoretical explorations of childhood agency rather than a strict review of the law that might shed light on possible causes for the current practice processes or recent practice trends. While a segment of children's geographers have examined legal and political aspects of children's occupation and the real and virtual spaces in which they have agency, as in Holt (2004), Holt and Holloway (2006) or Holloway and Valentine (2003), few of these scholars have reviewed practice facts within an empirical analysis of the law.

Several of these, what I might term as legally-inspired studies, examine children's involvement with critical practice components such as global capital exchange and child participation in global migration (Aitken, 2001, 2007), the extension of children's material authority through proficiency in technologically based conduits (Valentine and Holloway, 2001; Massey, 1995). Although children's geographers offer compelling arguments for heightening cultural sensitivity to the scales in which children's interests may be exercised or infringed upon, few substantiate their arguments with a practical interrogation of specific categories of children's interests that are to be protected within this unique method of family construction. To address this absence, a key component of this research is an analysis of the practical impact and efficacy of child regulation across scales.

My three primary criticisms of the approach to legal review taken by many children's geographers pertain to the limitations that I believe this perspective places on analysis of the law. Firstly, virtually none of the studies contains a detailed review of the child welfare legal standards and multi-jurisdictional policies that are required for a review of the current practice facts. Secondly, few of these works focus examination on the efficacy of TNA governance, instead they center on related but different evaluations of children's engagement with technologies (Holloway and Valentine, 2003), political participation and citizenship (Leiter, et al., 2006) and the cross-cultural social agency of children as a population group (Katz, 2004). Thirdly, most of the works review the conceptual merit of children's rights based on historical evidence of children's under-representation as a means to interrogate, as Louise Holt (2006) argues, 'adultist' interpretations of legal designators and hierarchies. Although Holt maintains that adult based interpretations of children's lives pervade interpretation of the law, she then argues that identity-definition for children under the law also may be potentially discriminatory (Holt, 2004; 2006).

This presumption has prompted several children's rights activists to seek increases in childhood agency across spatial areas to combat the perpetuation of 'adultist' hegemony of the law and prevent the political marginalization of children as decision-making actors (as furthered in Holt and Holloway, 2006).

I find, at the core of these theories, a theoretical presumption about children's capacity to exercise their interests that is not supported by practice evidence. I object that as much as 'adultist' approaches to legal interpretation have grouped children in a way that denies them protection of fundamental human interests, described by geographer Hugh Matthew as creation of 'a singular and undifferentiated childhood' (2003, p. 3), the imposition of children's rights into TNA threatens a similar outcome. The notion of a legally differentiated childhood chimes with and furthers sociologically-based understandings of the child population, as set forth by James, et al. (1998). James, et al. argue that special considerations be granted in lawmaking for the global category children, which they presume to be physiologically immature, physically vulnerable and historically-underrepresented population. In contrast, I strongly believe that children cannot be diversely capable but still convey a range of rights that are equitable to – or more explicitly protected – than adults.

This claim, which I will explicate more fully in the legal review of Chapter 5, interrogates the summary designation of children as a specially protected class within all jurisdictions. I question whether this distinction creates inequities between the interests of receiving family members when strictly enforced within international family building process. Although the claim that all children are equally entitled to basic legal interests is conceptually sound, I argue it is impractical to evaluate a differentiated allocation of those interests according to specific cultural contexts or children's individual capacities. In practical terms, the 'best interests' of the child is difficult to determine in TNA because the

majority of children lack the physical, emotional or intellectual maturity to articulate their wishes without the aid of adult representatives. This observation parallels Holt's (2004) claims that even large-scale empirical studies of children may perpetuate in new ways the traditional and normative polarities between the powerless population of children and the powerful adult classes that have receiving significant criticism. As per the regulation of TNA, I project that the explicitly granted and varied set of children's rights - an act that is often taken as a legal remedy for past offenses - will likely take precedence over the weaker implied and nationally guaranteed civil liberties of parents. Based on this, I maintain that any evaluation of children's rights must remain grounded in a consideration of process practicalities.

In championing an alternative approach to evaluating children's rights within globalized practices of family building, this project furthers an understanding of national variations in the interpretation of children's legal agency as a critical determiner of global regulatory efficacy across practice scales. In my view, sociologically based research on children's rights - what effectively constitutes an area of legal geography involving children - fails to explicitly evaluate the practicalities of childhood agency afforded by universalizing their legal rights and interests. Cultural and childrens' geographer Stuart Aiken (2007) voices the claim that children have been politically 'over-used' by lawmakers. Nevertheless, he sees them also a 'fulcrum' of change for global law because of their participation in global family structures and markets. Aitken's notion that implies children are an appropriate population to act as independent agents for meaningful and productively directed global policy change. I contest this view based on the actual physiological immaturity of the child population immigrating for purposes of family placement.

Stated yet another way, children's geographer Nicola Ansell (2009) asserts that children have been characterized by a 'very parochial locus of interest' that confines analysis to the impact to the child rather than larger familial, national or international systems. Ansell, in her critique of assumed micro-geographies, refutes the concept that children live in a 'flat ontology', meaning that their inhabitation of the world is not necessarily confined to a home, in an effort to challenge scalar assumptions about the limits of children's perceptions and actions. Ansell's notion similarly challenges the current legal presumption of 'monohumanism', as argued by King (2009), and suggests the inclusion of a differentiated notion of childhood within interpretation of TNA law. I agree with her conclusion that TNA children's occupation of space is dynamic, but because of the idealization implied by this idea, I suggest that the TNA child adoptees factually occupy not only physical but legal connections and interests within different areas, such as recent offers by countries such as South Korea to repatriate large numbers of adoptees (Hubinette, 2004). While this does imply that children occupy multiple scales in diverse ways, I nevertheless disagree with Ansell on the notion that children's expanded occupation is necessarily as varied, or as responsible, as adults.

In parallel with other family development methods, I believe TNA is a unique practice that mandates a special evaluation of the rules of law and recent practice facts. This project approaches the study of law and policy with the presumption that the diversification of child populations merits a more sophisticated interpretation of the law, particularly with the current extension of a diverse set of human rights. This study aims to re-shape the analysis of laws pertaining to children in both legal geography and children's geography. With an intent for this analysis to differ considerably from that of children's rights proponents, I assume a more hybridized approach to the study of children's legal and political engagement. I blend attentiveness to the diversity of child and

family categories and to the practical parameters of children's developmental incapacity. As I develop my argument on the conflicts of law within current TNA governance, I will suggest a more precise regard for points of law than is evidenced in the recent work of children's geographers in areas of children's political agency.

Chronicling the Rise of the Children's Rights Regime

In the conclusion of this review, in concert with the works of critical legal theorist Cass Sunstein (1990), I argue that the current TNA law enters children into a global rights regime that causes governance of family building practices to operate through a children's rights regime. To examine TNA governance as a regime in which the universally granted rights of children have a disparate impact on receiving families constructed within the various receiving nations, I reviewed the policy history of modern adoption law in the UK and US from the initial 19th century legislation to the present day multinational instruments, the UNCRC and the Hague Convention. These factual and historical accounts will enable me to trace the evolution in cultural values around family building and other areas of family policy.

I drew most historical information from the comprehensive reviews of UK national and international TNA law by Bridge and Swindells (2003), Swindells and Heaton, (2006) and Smith et al. (2006). For my US adoption history review, I consulted the work of Barbara Melosh (2002) most extensively. She has examined the confluence of political, social and legal trends throughout the 20th century. A second critical resource on the history of adoption in the US was the Adoption History Project at the History Department, University of Oregon (which maintains an extensive archive of 20th century primary source materials

by adopters, social work professionals, lawyers and policy administrators) and the Evan B. Donaldson Adoption Institute legal history archives. Although these works are among the most objective and factually accurate accounts, the chronological information on international forms of the practice was less consistent than for domestic adoptions. Additionally, these historical reviews indicate that some but not all policy areas that may have a more immediate or direct influence on the decision making of individual families on matters of reproduction.

In addition to country specific sources of information, I consulted a few works comparing the UK and US laws that govern cross-cultural adoptions. The most notable works were authored by international family law scholar Kerry O'Hallaran's (2003, 2009). His extensive double volume study compared UK and US national policy trajectories on family development regulation and research on culturally specific concerns around families within several of the key receiving countries in the EU, North America and Asia. Using a similar research approach, Sanford Katz, et al. (2000) conducted a more general comparison across various areas of US and UK family policy from the 1950s to the present, the same period in which the TNA trend escalated most dramatically. Katz, et al.'s extensive anthology was a beneficial to a comparison of the legal standards of family development and standards for related areas of family legislation and policy on children alone, women's rights, marriage and family assistance programs. In particular, these two works explored differences in the national UK and US approaches to, and resistances around, multinational family regulation as expressions of political sovereignty. Therefore, the studies of O'Halloran and Katz, et al. contain a more detailed comparison of national policy interpretations than in van Bueren (1995), van Bueren and Wanduragala, (1995), who primarily study childrens' rights as a set of necessary protections that require international scales of regulation for consistent enforcement. I found the most compelling

explorations in O'Halloran and Katz, et al. to suggest links between the shifting intent of adoption law and the perceived social utility of the practice to, trace variations in areas of law governing adoption types and to respond to questions of law governing adoption.

Many of the earlier legal research on adoption law, which first appeared in the 1970s and early 1980s, devoted little attention to TNA. At that time, TNA was a statistically marginal practice that presumably differs considerably from domestic adoption. Although I argue that the cultural and legal distinctions that have traditionally distinguished domestic from international adoptions are rapidly eroding, I believe the legal concerns around each type of adoptions is still distinct enough to prevent me from drawing extensively from literature that is primarily on domestic adoption. My reasons are that many works primarily dealing with domestic adoptions emphasize an analysis of regulations in culturally sensitive areas such as 'secrecy' or transracial placements (Freundlich, 2000b) that, I believe, hold different cultural significance than for international placements. While I discuss differences between UK and US policies on transracial placement and access to adoption records as components of international adoptions, I evaluate these topics in reference to the geographical differences of TNA that, I argue, merit distinct consideration.

Another group of legal analysts, writing in the early 1990s following the initial ratification of the UNCRC, focused on the varying interpretations of the 'best interests of the child' standard. The collected works of Stephen Parker et al. (1995) contained legal analyses from the prospective of feminists, legal psychologists, critical legal theorists, policy analysts and comparative legal theorists. Although the 'best interests' language is generally lauded by these thinkers, their analyses collectively suggest specific areas in which the 'best interests' standard may fail to result in consistent practices within various

cultures and individual situations of decision making involving children. Each contributor to Parker's volume detailed an important area of change under the binding UNCRC standard. Together, the collection fuelled my interest in determining the extent to which the current understanding of the law could be interpreted to address their initial concerns. Rather than presuming their concerns about the UNCRC had been resolved by the ratification of the Hague, I framed my research questions to further these initial examinations of children's rights and the 'best interests' standard based on more recent facts of the multinational practice under the Hague. The most useful of these analyses includes Philip Alston's (1995) review of children's needs in the context of humanitarian law, John Eekelaar's (1995) work on the historical and current cultural rationale for children's entitlement to a full set of human rights, John Seymour's (1995) notion of balancing the rights of children and parents, Michael Freeman's (1995) theories on the practicality of children's rights, and Frances Olsen's (1992) interrogation of children's rights as a threat to the gains in women's human rights protections. Even further, their reviews preceded the changes in numbers of intercountry adoptions in some, but not all, countries such as the US following the ratification of adherent policies to the UNCRC. While many of these writings precede the inclusion of TNA receiving families into national provisions for contracting allowances, family assistance policies and access to technologies, these remain among the most detailed interrogations of UNCRC instrument. They were also among the first to foreshadow the practical considerations of its cross-cultural implementation.

As the international standards matured, a third wave of theoretical discourse emerged between the late 1990s to early 2000s from analysts primarily concerned with equity in the cross-cultural interpretations of the 'best interests' standard as in Alston (1994), Alston and Gilmour-Walsh (1996). While initial reviewers championed the overall protections conveyed by the UNCRC

children's welfare protections, later reviewers posed questions about the extension of children's interests within specific areas of decision making such as family building. Most notable among this group are a small set of writers whose works favor the current international interpretation of legal standard such as Elizabeth Bartholet (1993, 1999a, 1999b) and Bartholet and Hall (2007), Madeline Freundlich (2000a, 2000b) and Dorothy Hollingsworth (2003, 2008).

Expressing an alternative critique of the modern law, members of the social work community conducted small-scale empirical research on the TNA practice to assess the consistency in interpretations of the standard within local policies. Notably, social worker Jini Roby (2007) concluded that the interpretation of the 'best interests' standard routinely differs between areas of conceptual intent and practical application. She called for the possibility of extending understandings of the 'best interests' language beyond culturally based assignments of material and medical need, which are frequently presumed to be the exclusive meaning of children's rights rhetoric. Instead, Roby aims to optimize child placement practices for TNA to better support the practical protection of children's best interests within family contexts. Roby questioned the local interpretation of a universal legal standard within placement practices. In a related argument, legal scholar Sarah Dillon (2003) closely reviewed the 'best interests' language by comparing interpretation of 'best interests' in child placement and the actual legal needs of children to assess whether the law did, in fact, satisfy the global humanitarian goals. Dillon supported the overall humanitarian value of the 'best interests' standard in contrast to Roby's emphasis on the ability to formulate and consistently implement 'best practices' based on the standard. In both Dillon and Roby's reviews, there is a presumption that 'best practices' is a meritorious standard and means to protect child welfare, but base their conclusions on significantly different studies and reasons.

Only a few theorists have questioned the efficacy of the ‘best interests’ standard as applied to TNA. Among these, L.J. Olsen (2004) responds affirmatively overall to the query of whether the TNA practice is sufficient to equitably address the needs of the global population of children and protect the unrealized interests of parentless children, such as orphans left in the wake of the AIDS pandemic. Conversely, Naffine (1992) raised questions about the presumed connection between the conveyance of rights to children and legal remedies for histories of abuse, neglect and underrepresentation. Yet, based on a comparison between TNA motives and need, Olsen surmised that other forms of humanitarianism might constitute a more direct and effective means to protect children’s interests than suggested by some segments of the legal community. Based on the incongruity in countries with large numbers of needy children and the primary sending countries for TNA, Olsen presumed that the relationship between parental interest and the needs level of children in specific areas did not correlate. Nevertheless, Olsen admitted that receiving cultures continue to presume that TNA is the most efficacious means to protect the interests of a certain population of children. To me, this disparity between children’s need and interests for adoption indicate that further analysis is required of the cross-jurisdictional differences in the interpretation of the law.

The analyses of TNA law published roughly from 2006 to the present, the period leading up to the US and UK full adherence with the Hague Convention terms, have included the most direct interrogations of the international accord, as in Schmit (2008). Just as the studies that immediately followed the US and UK ratification of the UNCRC in the early to mid-1990s lacked sufficient evidence to examine certain aspects of the law, many of the works published after 2008 remain primarily exploratory, since the changes brought on by US accession are ongoing. The key changes brought on by national UK and US policy adherence to the Hague are contracting parameters for various placement support

technologies, inclusion in state assistance provisions and access to adoptee birth records. In my comparative review of UK and US national policy rules and positions, I argue these changes are so profound that multinational adherence evolves the actual legal definition of TNA and potentially erodes the traditional legal distinctions between foreign and domestic adoptions. I believe the increasing, but underexplored, similarities in the legal understanding of domestic and international adoptions contribute to the perceived modernization of this practice.

In my review of trends in UK and US policies on TNA, I compare the cultural responses to policies of 'openness' in adoption records and transnational adoptions as a new and potentially revolutionary element within the cultural conception of the TNA practice. To detail an example of my use of literature to develop this argument, US legal theorist D. Marianne Brower Blair (2001), in a comparative four country analysis of the impact of legal and family shifts on disclosure of birth information, credits the international adoption law for ending the "closed" records or "secrecy" policies. Blair notes that the shift towards disclosure of records first began in the early 1970s when the stigma of illegitimacy declined. This process accelerated the critical refiguring of 'adoption as rebirth' or 'fresh start' paradigms by adoptee activists seeking access to information for self-knowledge or medical histories (2001, p. 598). This myth of 'adoption as rebirth' is not as strong with intercountry adoptions as with domestic adoptions since many TNAs are also transracial or trans-ethnic placements. Yet, Hague mandated stipulations on the recordkeeping of both sending and receiving countries enables increased origin searching capabilities that effectively make these practices more commensurate. To compare UK and US approaches to family policy more broadly, I reviewed a small set of works comparing UK and US trends in modern family law. For this, I regarded the analyses by Michael Freeman (2003) on family care chains and S. Sargent's (2003)

comparison of UK and US domestic family law initiatives. I have approached both works with the understanding that the recent numeric downturn in TNA placements may be a result of non-legal circumstances related to the global recession such as parental inability to finance TNA and cutbacks in national family assistance programs, which are all substantial hurdles to parental contracting for TNA.

Families Constructed by Law

This analysis also includes a broader theoretical consideration of the political geographies of receiving families created by this family building practice. In this examination, which spans the substantive chapters on practice demography (Chapter 4) and laws (Chapter 5), I suggest that receiving families constitute a type of multinational or transnational family (Bryceson and Vuorela, 2002). One of the most notable shifts in international child protection law was the extension of international legal authority to areas previously viewed as private, such as local areas of the home, that have not historically been subjected to regulation from external authorities. In reviewing the scope of the UNCRC standard effect, I looked at material evaluating the primacy of children's rights as a legal intrusion into the family space and a possible encroachment on the rights of families and parents (Macedo and Young, 2003). A primary argument that I develop throughout my analysis of the law (Chapter 5) is that receiving families are spaces in which the rights of various family members may be contested.

Until the 1989 UNCRC, the possibility of increased state intrusion into the family space constituted a disquieting change for psychologists like Goldstein, et al. (1973, 1979), who evaluated levels of child protection before the

implementation of the international law. Influenced by Freudian psychoanalytic theory, the empirical studies of these psychologists reviewed the influence of family building oversight by capturing family views before as well as after enactment of the UNCRC. They asserted that 'when the family integrity is broken or weakened by state intrusion, her [i.e. the child's] needs are thwarted and [his/] her belief that [his/] her parents are omniscient and all-powerful is shaken prematurely. The effect on the child's developmental progress is likely to be detrimental. The child's need for security within the confines of the family must be met by law through its recognition of family privacy as the barrier to state intervention upon parental autonomy'. Even further, they assert that family integrity requires 'parental rights to be free from intrusion' legal or individual concerns (1979, p. 90). Unlike the modern law, in which parental decision-making is subject to legal review, pre-UNCRC analysts largely advocated parental supervision over state supervision of decision making in family building activities.

The effect of the UNCRC on families incited two primary camps of thought that generally followed along with the differing national UK and US basic positions either for or against the practice of TNA. On one hand, UK legal researchers and policymakers have voiced concerns on the efficacy of the 'best interests' standard, based on the view that prioritizing the global protection of children may result in compromises to national family policy goals. Conceptually, the UK interpretation suggests that state intervention contributes to the erosion of control over the maintenance of cultural norms within adoption practices, as in policies such as race matching in placement (Hayes, 2000). On the other hand, Susan Nauss Exon (2004), US legal theorist on international dispute negotiations and child adopter, commented on the lack of clarity about what constitutes 'best interest' across different geographic areas, ethnic groups and family configurations. She states, 'the ability to define the standard, "best

interests of the child” is not easy as one may think. Since the standard relates to family relations, it is a matter of state concern, and the parent/child relationship is deemed [a civil liberty protected] under the 14th Amendment. State legislation and judicial opinion, therefore, prescribe the best interest standard’ (p. 6). Exon’s assessment of the standard within the US context explicitly articulates concerns for the continued protection of categories of parental civil rights.

In contrast with Exon’s view, which presumes a strict reading of the UNCRC standards, other legal theorists such as Elizabeth Bartholet (1993, and Bartholet and Hall, 2007) have commented on the irreconcilability of internationally protected interests and the civil liberties required to elect for the TNA practice. Bartholet and Hall (2007) have acknowledged that, TNA receiving families are essentially constructed by law. She also states that the laws, in some instances, have a negative impact on the families when parental access to that election is restricted by onerous due process requirements. As an adopter herself, she has written extensively on the need to reconcile localized needs for family and international efforts at child welfare protection in ways that can continue to support the practice for humanitarian reasons. Yet, based on her approach, Bartholet does not go so far as to articulate the notion I suggest here, which argues that the legal intensity of the practice evidences a conflict of interest among practice parties and that the multinational law fails to resolve this conflict.

Expressing a related set of concerns, Bernadette Walsh (1991) articulates very specific concerns about the extension of child rights within the British culture. Her reservations stem from a perceived shift in the role of the government into the childrearing process. Walsh writes that ‘by focusing specifically on the rights of the child, the UN Convention creates the potential for more explicit recognition that the key questions for human rights is not simply

one of the relationship between individuals and the state but of the state's role in regulating the relationship between individuals' (1991, p. 171). She implies that the family itself may then be subject to dual and potentially conflicting scales of national and internationally based law. Building upon this element of Walsh's legal analysis, I argue that establishing the 'best interests' of the child as 'primary' poses a potential conflict of law and a hindrance to legal efficacy. To assess this conflict, as it pertains to the explicit and implicit rights extended to families in the UK and US, I engage with theorists who have examined the limits to individual interests and parameters of rights regimes. My examination of TNA as a rights regime is heavily influenced by the works of US critical legal theorist Cass Sunstein (1990, 1995) who addresses issues of constitutionally protected rights to technology and family economic regulation and who has widely explored regulatory systems effected through an extension of individual interests – what he terms 'rights regimes'.

Applying Sunstein's view that the law interplays differing categories of rights that are expressed and allocated across practice scales, I examine the practical impact of constructing receiving families from a collection of diverse, rights bearing citizens. I particularly draw on Sunstein and Thaler's (2008) fascinating suggestion that families can be legally privatized, in contrast to the insistence of Cindi Katz (2004) and others that families are increasingly globalized, public spaces. Sunstein and Thaler evaluate legal boundaries as expressive of rights in a manner that directly supports my interrogation of the legal conflict I believe exists within TNA receiving families.

In addition to Sunstein and Thaler, I looked at Skinner and Kohler's (2003) theories on the re-allocation of rights and responsibilities within families as a fundamental aspect of their modernity as well as Hansen and Pollack's (2008) interrogation of national adoption policy 'trade-offs' that would support both the

child protection standard and implied and explicit rights of parents. In addition, some recent policy reviews conducted by social workers explore a conceptual reconfiguration of TNA regulation for primary receiving countries such as the US that now operate under post-Hague parameter. Among these works, I argue the merit of J. Dickens (2009) call for national policy amendments, although perpetuating forms of inequity and cultural difference, to explicitly address inconsistencies in the laws and the inability of lawmakers to arrive at a consistent definition of the practice. However plausible this proposition, given the very compelling needs for protecting the interests of all parties within the TNA practice, I maintain the need for TNA policy amendments to address the existing polarities of scale that are often embedded in notions of global welfare regimes.

Problems of Cosmopolitanism: Development of Universal Standards and Interpretation of Global Social Policy

My claim that the 'best interests' constitutes a global rights regime demanded my consideration of works on the subject of legal pluralism, cosmopolitanism and emerging patterns of global governance. I view these works to be an avenue to evaluate alternative interpretive approaches to demographic studies of population characteristics as well as an innovative avenue to assess the political geographies of transnational populations. Among the comparative theorists writing on methods of equitable global policy interpretation, I was most stimulated by the works of Boaventura de Sousa Santos (1987, 1995, 1998, 2002, 2006a, 2006b) whose works were most influential to this project's analysis of the legal and political geographies of the global category of receiving families. Although much of his work focuses on the cultural mobilization of post-colonial populations for enfranchisement and notions of legal modernity, his theoretical constructs offered alternative

approaches to assessing the current polemic in TNA legal discourse. There is a need to evolve discourse around TNA law that remains stuck in either a fight for global human rights or the protection of nationally guarded civil liberties or contracting interests.

In particular, I borrowed from Santos' (2002) notion of 'interlegalities', or unregulated spaces that occur between legal jurisdictions of differing scales, which brings forth a new epistemology for global law, to frame my assessment of modern TNA legal discourse. Applying 'interlegalities' a study of TNA law, I looked at the qualities of individual representation and national sovereignty as constitutive of spatial boundaries within the global practice. This idea correlates the point of legal geographer David Delaney (in Blomley et al., 2001), who has stated that legal interpretations are seldom confined but are rather 'superimposed, interpenetrated and intermingling' (p. xxi). In using concepts of legal pluralism to further a study of TNA receiving family populations, I was able to engage in a more sophisticated analysis of TNA regulation. I also drew upon this concept to develop broader arguments that the laws of international family building may more profoundly impact local practice patterns than is commonly presumed by analysts whose review of law is confined to a single practice scale.

At the conclusion of the legal review, I engage with the theories of legal geographers to suggest new areas for theoretical exploration within this area. For example, I posit that geographic difference, although an undisputedly unique characteristic of TNA receiving families, is a quality not currently recognized as material under the law. This notion aligns with legal geographer Gordon Clark's (2001) review of the hidden political, racial and cultural agendas of judicial rulings in which he concludes that spatial differences develop into relational differences. Clark states that 'the problems of aesthetics and ethics are

not simply problems of competing theories of decision making, they are also representative of a more profound problem: the putative hegemony of the law as the language of social life' (2001, p. 111). While Clark's theories are based on case law analyses, his arguments around the potency of legal language are applicable to my challenge to the uncritical use of legal terminology such as 'best interests,' 'identity,' and 'children's rights' within legislative law, social policy rhetoric and social work terminology. He argues that legal complexities resulting from a neglect of the spatial impact of a law can reinforce social practices in undervalued ways, based on presumptions of benignity. He suggests that the law not only regulates human practices but also defines the cultural significance of the practices through the re-articulation of the law.

Summed up alternatively, legal geographer Nicholas Blomley (2001) states that the law is 'not a neutral, 'innocent' or reified' instrument of social management or social construction (p. xiii). Clark's notion is especially important because such terms, while initially drafted into the international instruments, have become increasingly commonplace criteria for decision making on local or familial levels. I understand his comment to re-articulate earlier criticisms of inconsistencies in UNCRC standard interpretations raised by comparative legal scholars such as Na'im (1994) and critics of humanitarian law as 'imperialist' in nature (Harris-Short, 2003). As suggested by these cross-cultural legal theorists, my understanding of legal geography includes attention to the cultural specificity implied in current definitions of the 'best interest' language. Seen in this manner, the interpretation of the standard carried out at the national policy level effectively constitutes a form of cultural production. Appropriating various notions from legal geographers and pluralist approaches to conceiving the global laws of TNA, I will argue that the current child welfare governance generates inconsistencies in TNA law across scales and the conflicts of interests practically impede a consistent fulfilment of legal intent.

Commodification and Families

In this section, I survey the works that were critical to my examination of the economic processes required to complete transnational child adoption. Included in this economic analysis is a theoretical interrogation of the cultural designation of TNA as a distinctly 'modern' or economically intensive method of family creation. In Chapter 6, I will compare the cost and evaluative economies of TNA practices to both traditional forms of family development as well as in technologically assisted alternatives such as categories of *in vitro fertilization* and surrogacy. Among the indicators of 'modernity' I examine most closely, I particularly look at works that speak to the combination of economics and technologies that are useful in evaluating family changes and comparing TNA to other methods of family creation. My review of TNA economies and technologies is premised on the belief that economies and technologies, whether apparent or not, are integral to all family building practices now regarded as 'modern'. In the end, throughout the chapter I contest the common UK and US cultural assumption that economic practices and family relationships are necessarily separate. I have surveyed works that speak to cultural responses to the levels and areas of receiving family economic engagement.

In my investigation of the legal economies of TNA and the political economies of families, I review the sub-disciplinary work of economists, economic sociologists and economic geographers who speak to cultural views on the economies of modern reproduction and the family. In opposition to studies on family development emanating from areas of social science, anthropology and sociology that largely consider economics to be contingent to family development, I instead presume that economics are an intrinsic aspect of all

modern reproductive practices in various ways. Based upon a typological analysis of average process costs for UK and US TNA placements, I regard the required costs and economies of modern reproductive methods to be comparable. I then explore the variations in the economies of TNA, relative to other assisted and unassisted family development methods. Before reviewing these studies as a distinct category, I first examine works that help develop my arguments around the critical significance of economics and technological processes for the growth of this practice.

Behavioral Economics: Family Participation in Reproductive Service Markets

A primary aim of Chapter 6 is to evaluate the economic geography of families and globalized reproductive practices using a research approach developed within microeconomic theory. To assess the economics of modern reproduction as a microeconomic phenomenon, I draw heavily from the conceptual approach to family economic analysis developed by Gary Becker (1976, 1980, 1981, 1992, 2004), Becker and Barrow (1988), Becker and Murphy (1988, 2000), Becker et al. (1990), Rayo and Becker (2007), Landes and Posner (1978), and E. Posner (2000) and R. Posner (1987). Informed by their microeconomic analyses, I looked at the economies of reproductive decision-making as fundamental to an evaluation of the current cultural characterization of receiving families. By grounding my analysis in economic theory, I supported this project's investigation of intimate acts of reproduction as a form of market engagement that shares undervalued similarities with commodity markets. In both types of markets, the assignment of monetary value to goods and services is a critical aspect of engaging in economic activity.

Of the concepts that I found most useful to my assessment of TNA economics, I drew from the extensions of Becker and Murphy (2000) on Thomas Robert Malthus' (1796, originally published in 1789) argument that population levels correspond to national productivity and wealth. Speaking to the impact of fertility in modern economic systems, Becker and Murphy (1988, 2000) conclude that 'family behaviour is active, not passive, and endogenous, not exogenous. Families have large effects on the economy, and evolution of the economy greatly changes the structure and decisions of families' (1988, p. 24). In the local context of the family, rational decision making and evaluation based on morality, ethics and cultural considerations has enabled different types of predictability than occurs in rational, cost-benefit analyses, as explored in Becker and Barro (1988), Becker and Murphy (2000). Most notably, Becker and Murphy (1988) examined the monetary value of family activities, even though their study of modern reproductive markets was not as sophisticated as that of Zelizer (1981, 2000) or Spar (2006, 2007). Yet, I believe that an appreciation of recent developments in the reproductive market is critical to my evaluation of receiving families' global and national economic agency.

Furthering Becker's study of reproductive economies, I align my work with other social economic theorists who have also linked family building costs, to family decisions and wider practice trends. The high costs of TNA for prospective UK and US parents with average income levels initially caused me to question the decision making processes involved in ensuring legal heirs to property or acting altruistically, pursuant to humanitarian systems of value. In my review of practice economies in Chapter 6, I examine TNA reproduction as an altruistic or humanitarian act of family building that mandates global expenditures. In exploring TNA family building as family act of altruism, I will examine Becker's original notion of irrational family economic behavior in reference to other recent assessments of globally scaled family altruism. In

particular, I include Oded Stark's (1995) examination of the decision by families to act altruistically ways that exceeded their economic means, Law and Heatherington's (2000) study of heterogeneous intent for family expenditures, Sara Franklin's (1997) assertion that cultural values impact family level decision making and Parry and Gere's (2006) claim about the opacity of complex family economic decision making.

Even further, several behavioral economists have argued that the financial and personal benefits of altruistic acts may be fluid, interchangeable and inconsistent across cultures and individual families. In contrast to the negative value commonly assigned to child commodification, I found the approach of microeconomic theorists to suggest that children provide a diverse mixture of emotional and financial perceived benefits to families (Becker, 1976). To explore the notion of behavioral economics further, I also looked at the work of social economists whose works have studied the recent growth in reproductive markets. Among this group of scholars, I drew considerable inspiration from the work of Debora Spar (2006, 2007), whose work on the modern 'baby business' explicitly compares the required costs and evaluative economics required for TNA with those of other reproductive alternatives. Spar's research furthers Becker's theoretical work as she prioritizes a comparison of practices across reproductive methods. Spar maintains that economics are now required for a variety of contracted reproductive practices but also that these practices and transactions constitute a market in which technology plays a key role. In contrast with depictions of TNA that emphasize the humanitarian aspects of the practice and omit clear representations of the actual cost economics required for parents, Spar and others invite a detailed realistic assessment of familial evaluative skills. Spar's comparison of costs across family building methods challenges the notion that family building lacks quantifiable economic value that can - and often times must - be taken into account within family budgets. Even further, Spar's explicit

cross method-comparison implies a high level of parental economic agency within areas of family that hints at the considerable size of the modern reproductive health industry.

To inform my discussion of the literal economic intensity of the category of assisted reproductive methods, I drew from the studies of Dukes and Tyagi (2009). They studied the maturation of reproductive health care industry economics such as the common marketing practice of service providers to attract contracting by prospective parents through offers of money back guarantees for unsuccessful *in vitro* fertilization processes. As a category, these works bolstered my challenge to the traditional cultural assumptions about economics and family development. In varying ways, each work supports my economic analysis by affirming the commensurability of modern family building activities. Based on this, I develop the argument that decision making around fertility motivates family expenditures and investments in family building, that are regarded as irrational in general economic terms but also make up financially significant sums (Becker and Murphy, 2000).

Extending this notion to evaluate family economic participation within international scales, receiving family participation in the global marketplace through reproductive economics constitutes a new area of study within economic geography. This new way of conceiving family economic involvement on international scales entrains with emerging work within economic geography. For instance, sociologist Bahira Sherif Trask's (2009) recent work on family participation in global markets, much like Becker's work, affirms the 'formal and informal' aspects of family participation in global markets to 'meet certain social, emotional and economic needs' (2009, p. 6). Sherif Trask's work differs from economic geographers who have examined product economies and presume a directional flow of goods that move from 'industrialized' cores to 'agrarian'

peripheries. Examinations such as Sherif Trasks' indicate how the economics of TNA trump and confound traditional assumptions that globalization is necessarily comprised of 'top down' political streams and dichotomies of family identity and global participation (as per Krugman, 1991 and others). Instead, Sherif Trask explores the impact of globalization on families as generative of personal identity and lifestyle, conveyed through vehicles of technology and the regulation of localized processes. In the end, family building practices are difficult to analyse within the existing cultural assumptions that polarize market-driven choice and humanitarianism. Ultimately, the distinction between the commercial and the interpersonal are determined at the local level but, I argue throughout my analysis of evaluative economics, are greatly influenced by national policy positions on family assistance as well as perceived cultural norms around family building.

Economic Evaluations within Modern Family Building

To support my empirical work on TNA process costs for UK and US parents, I have read across three distinct literatures about the economic behaviour of families and the economics of reproduction. The first area of works examines the economies of modern families through an evaluation of their domestic expenditures, as in the work of social economist John Ermisch (2003). This area of literature contributes to evaluations of family, microeconomic behaviour that are altruistic, irrational and distinct from macroeconomic market behaviour, presumed to be fundamentally rational (Becker, 1981; 1984). Ermisch's (2003) work develops concepts proposed earlier by physical anthropologist Hillard Kaplan (1996), who suggested that parental expenditures not only in children's education later in life, but also expenditures associated with family creation. Both types of family expenditure can be assessed as

'investments' in children that imply some form of anticipated return. Differing from Becker's studies of family economic behaviour as compared to the characteristic behaviour of market economies, Ermisch looks at the contribution of family background to the assignment of value to expenditures that are essentially investments, from which parents anticipate a future return. He examined family expenditures for children's education and family planning as common areas of investment. Critical to his exploration, Ermisch isolates the elements of parental education levels and backgrounds as precursors to accessing reproductive technologies and seizing decision-making opportunities (Ermisch and Francesconi, 2001).

In a similar manner to the cost typology of my empirical research in Chapter 6, Ermisch (2003) analyses a range household costs by dividing them into types of expenditures (which include altruistic, non-altruistic, household formation and economic theories of fertility) as a means to statistically predict family behaviour in the marketplace. To draw similarities in the socioeconomic levels of TNA receiving and prospective parents who contract for external reproductive assistance and other family investment behaviours, Ermisch's approach to studying family building as an investment is beneficial to my study in key ways. His methods of studying investment patterns relied upon a review of national datasets of publicly accessible quantitative data on spending habits parallel those used in my examination of resource allocation for reproductive practices. Much like Ermisch's stated scope of research, I also present my work as being an initial point from which I can later develop studies that are more exhaustive on TNA economies. In the end, I hope to contribute to the existing area of scholarship on reproductive markets initiate by Spar (2006), Zelizer (1997) and others.

A second group of literature examines children's varied and increasing participation in commercial activity on global scales. My analysis of children's participation in economic global exchanges is based on the findings of social geographer Cindi Katz's (2004) ethnographic work comparing the manner of children's uptake of commercial goods in Sudan and New York. Overall, I found Katz's work very beneficial in my assessment of the development of markets in which children are a critical component. Although her studies do not directly analyse child adoptees as commodified objects, she brings up compelling concepts, such as describing families as 'intricate microgeographies' (p. 128), in alignment with what I perceive to be accurate for TNA receiving families. In a similar manner to arguments of children's geographies around childhood agency, Katz frames children's participation in global markets as indicative of explicit forms of agency. Although the subjects of her study differed from TNA adoptees, Katz's general insistence on the legal as well as material and economic agency supports this project's qualitative analysis of TNA economies.

The third area of literature that supported a qualitative analysis of my empirical research dealt with issues of family building commodification. To explore this culturally sensitive topic, I regarded the works of Claudia Castaneda (2001) on the figuration of transnationally adopted children within receiving cultures, Daniel Thomas Cook (2005), a sociologist speaking to the dual notion of children as commodifiers and commodified, and sociologist Viviana Zelizer (1981, 1985, 1997, 2000), who has explored the commodified figure of the child. To compare the works of these theorists, Castaneda and Cook explored the child as a valued object for consumption within the global marketplace and assessed the value of the child relative to the family. Their work speaks to this study is because it explores the means by which the concept of the child is valued, marketed and consumed through economic exchanges. In contrast to Zelizer, both Castaneda and Cook look more to the cultural figuration of the child as a

substitute for the actual child in ways that enable them to examine elements of the commodification process that are not often explicitly rendered in classic economic analyses of the family.

On the other hand, and in contrast to these two, Zelizer (1994, 2000) deconstructs the term commodification itself and asserts that value assignment is an intrinsic component of modernity that pervades our interpersonal engagements. In my extensive review of this theorist, I found most useful her view that money is not wholly profane in ways that enable personal agency, opportunity and connectivity, particularly along technologically advanced conduits of the internet or other communication media. I value her approach as an alternative to viewing these required economics as profane as suggested in my review of publicly accessible literature on TNA and rhetorical descriptors used for the TNA practice. In a similar manner to Zelizer, Elizabeth Hirschman interrogates the manner in which reproductive markets, involving many contracted forms of reproductive assistance, set families within a 'sacred/profane continuum along which marketing exchanges may be made' (1991). Drawing from all of these theoretical materials, I cultivate a new approach to assessing TNA receiving families and adoptees.

In reflecting on these and other selected works on modern reproductive economies, I interrogate the perception that TNA is negatively commodified to invite a re-examination of both this practice and the notion that modernity is a term that exclusively applies only to a subset of contemporary family building practices. Like the work of Zygmunt Bauman (1995) who challenges the idea that commodification is necessarily detrimental or profane and the findings of Higgins and Smith (2002) on moral distancing and subjectification of child adoptees, I extensively explore notions about 'semi-commodification' as detailed by feminist legal theorist Margaret Radin (2000). Through an analysis Radin's

approach as it speaks to the circumstances of TNA family formation, I argue that her ideas offer a complex, if not more realistic, conceptual alternative to the current polemic about the economic intensity of modern reproduction.

Re-Defining Intercountry Adoption as Technologically Assisted

In exploring the broader contribution of TNA family building economies to its characterization as definitively 'modern', I take up a more explicit study of parental access to the various technologies required to complete international child placement. TNA receiving family reliance on various technologies is an undervalued nexus from which to draw necessary comparisons between TNA and other family building alternatives. I found in my empirical research that all methods have similar required cost economies, may span several scales, and required externally contracting with service professionals. There are several ways to theoretically read TNA as a technologically dependent process. In organizing my review of the literature on the economies and technologies of TNA, I will recount three groups of material that deal with the economic aspects of modern reproduction.

On a fundamental level, technology can be evaluated as modernizing TNA because it creates a break with the past understandings of the practice as primarily altruistic in intent. Social and cultural anthropologist Arjun Appadurai (1996) challenges the view of modernization as a break and instead suggests that there is 'no modern moment where there is a break between past and present' (p. 3). I accept the merit of Appadurai's view and the ill-defined temporal aspect of modernity that breaks with the past through an evolution in processes to a non-traditional and culturally unrecognizable form. Continuing

this line of thinking, anthropologist Marilyn Strathern (1992) similarly argues in her examinations of the mores of English kinship that the interconnections between ideas of continuity and change are necessarily complex in cultural articulations (p. 2). In speaking to the absence of clear distinctions between modernity and tradition in families, Strathern notes that ‘over the span of an époque, the English have brought the most radical changes on their heads by striving most vehemently to preserve a sense of continuity with the past. And have in the process revolutionised the very concept of nature to which they would probably prefer to be faithful’ (p. 3). In this statement, Strathern indicates an avenue to explore the contemporary ambivalence evidenced in UK and US responses to the increasing use of and reliance on technologies within methods of family construction such as TNA.

A second group of works speak to technology as a form of knowledge. One point I took from Strathern’s most recent writings on Euro-American ways of categorizing economically valuable knowledge, is that technology is a form of knowledge that is neither wholly scientific nor interpersonal. This knowledge is particular to the Euro-American interests in ownership, relations and self-knowledge. Within her models of what she calls ‘*anthropology’s relation*’ and ‘*science’s relation*’, which both combine ideas of what is ‘found’ and ‘made’, Strathern asserts a simultaneity of these two understandings that are often thought of as distinct. Strathern asserts that the ‘*facility to deal with both together, to operate two kinds of relations at the same time, that is the tool*’ (2005, p. 7). There is a benefit to understanding that technologies are not entirely positive or negative (as per Hirschman, 1991) as she comments that “the distinction allows Euro-Americans two ways of getting at relational knowledge: uncovering what is in nature and making new knowledge through culture’ (2005, p. 11). For me, Strathern’s points bring up an interesting venue for exploring the value of knowledge(s), both relational and scientific, as access to a reproductive method.

Upon this base, I then examine the cultural variations in what constitutes successful, modern relationship making within my review of cultural discourse in Chapter 7.

A notion within modernity that is closely associated with non-traditional family building methods is the decision-making required of prospective parents who are contracting for TNA processes. Arguably, parental decision making around the use of reproductive technologies remains one of the most highly contested areas of modern reproduction. My study of UK and US processes indicated that for-contract technologies involve decision-making on local levels that are directly influenced by national economic and social policies that provide for family building assistance. Based on confirmation from a US Congressman's office during my empirical research on the national adoption assistance policies, I found few studies on modern reproduction have included extensive comparative studies on TNA parental access to various forms of assistance (McDermott, 2007; Green, 2007). I argue that national policies on reproductive contracting and family support have a direct impact on parental decision making on local levels that then shape global practice trends.

To develop the argument that the technological intensity of TNA is analogous to other methods but the decision-making is unique, I will explore links between the contracting and decision-making required for TNA and other ART methods. I considered a large group of works that evaluate cultural reception to the increased use of contracted reproductive technologies to enable reproduction. To form the basis of my thinking in this area, I have taken theoretical direction from the varied works of anthropologist Sarah Franklin (2001; 2003) on evolving perceptions of technologically interpreted kinships. In addition, I also draw from her collaborative works in Franklin, Celia Lury and Jackie Stacey (2000) on global reproduction, in Franklin and McKinnon (2001) on

the valuation of family and in Franklin and Roberts (2006) on the use of genetic testing within reproduction. Taking concepts from these works, I suggest the existence of an overall parallel between TNA and the work of ART theorist and anthropologist H  l  ne Ragone (1994), who recounts her ethnographic work with surrogate mothers who, although remunerated for fulfilment of contracted services, indicated a feeling that their contribution exceeded the terms of the agreement. This example indicates that the surrogate's gestation or proximity to the child altered the valuation of the surrogacy contract and the designation of the child as gift or a remunerable product. In examining cultural perceptions about the economic intensity of TNA, I compared UK and US contract restrictions as forming the legal economy of the TNA practice and setting the systems for evaluating the children and the families within receiving cultures.

Exploring the TNA Geographies of Modern Kinship

My engagement with this final set of literatures supports my project's exploration of UK and US patterns of response to the unique relationships within receiving families. Although views on family relationships vary between the UK and the US cultural contexts, I initiate a theoretical exploration of the commonalities among families created by TNA through a review of the dominant and recurring narratives that now characterize the practice within each of these receiving cultures. The intended aim of this component of my work is to contribute to and further existing research on geographies relatedness, emotions and transnational families in new areas. Since very little geographic work explicitly considers TNA receiving families, I also considered theories on kinship and relationship developed within related disciplines of anthropology, sociology, philosophy, psychology and the humanities. Most importantly, I drew from the developing body of materials on cultural memory as a means to inform a

narrative analysis across multiple forms of media, which include news reports, feature films and documentaries among other sources. In exploring culturally specific notions of memory, I draw upon a wider, multi-disciplinary set of theories that indicate new ways to evaluate the use of family building practices as a means to resist or reconfigure kinship paradigms.

Therefore, this review will look at processes of normalization, cultural production and hybridity in relation to these families. I primarily engage with theories developed around the British and American notions of family. However, this review will also refer to kinship studies that have been developed within other Western cultures with families that contract for TNA practices. This may refer to French, Australian, Canadian and Scandinavian based theories on families. Lastly, this work will look at theories that enable a comparison between notions of alterity and tradition within TNA families. Continuing my interrogation of TNA families as inherently 'modern', this section addresses three critical research areas in the exploration of TNA family relatedness. These areas involve an interrogation of kinship categories, an exploration of culturally modern families as produced by law and economics and a re-categorization of TNA receiving families as a global population. These areas inform a discussion at the core of this thesis' aim to develop a more accurate and sophisticated conceptual category for receiving families.

This re-evaluation is comprised of two core components. My first question focuses on political economy as a means to conceptually differentiate the unique geography of receiving TNA families. It reviews the understanding of political economics in reference to other descriptors such as 'Western' or 'alternative' and the assumptions that surround them. This is an exploration of anthropologically based theories on the redefinition of the family that may suggest how families generated through TNA represent one of many forms of

globalized or transnational families. The second question concerns the manner in which TNA families can be distinguished from other families within receiving cultures. This includes a discussion of the manner that TNA families respond to and mediate internal differences of origin. The second question compares the simultaneous acts of human reproduction and social reproduction in TNA. This will examine cross-disciplinary theories on cultural reproduction, connectivity and intention that characterize relationships across various geographical scales.

One such area may be within memory or archival studies that include Susanne Küchler's (1999) theories on memories within material cultures, Forty and Küchler's (1999) depiction of knowing as a resistance to cultural 'forgetting' and Jacques Derrida's (1996) review of the Freudian-based subconscious memory as an archiving technology between nature and culture. Exploring issues around temporal knowledge raises interesting and critical questions around whose memory is served through this technology. It also raises questions about precipitating factors such as the trauma of the parent regarding infertility (Potts and Selman, 1979) or, as termed by political theorist Wendy Brown (1993), where the 'logics of pain' become a form of political trauma embedded in the constructed identity of the child adoptee (p. 390).

Kinship Categories: Examining Notions of Family Alterity, Social Capital and Cultural Normalization

This interrogation the characterizations of receiving families engaged with a broader set of literature on modern kinship norms within the UK and US. Recent demographic scholarship generally suggests that infertility perpetuates parental interest in alternative practices of family development. Some of the most interesting research findings indicate that the correlation is not linear and

involves several cultural factors. These include the fertility studies by Shkolnikov, et al. (2007) within the larger works of the Max Planck Society that showed a combined relationship between concentrations of female reproduction in Europe (reproductive regimes), positive family values and socioeconomic levels as well as Bennett and Barkensjo (2005) on the success of child specific adoption marketing strategies. While my review of the receiving family population itself draws from a group of demographic studies on fertility, migrations and family statistics (Potts and Selman, 1979; Weil, 1984; Selman, 2000, 2001a, 2001b, 2002, 2006, 2009), this class of literature also informs my later evaluations of receiving family economies within Chapter 6 and the review of UK and US cultural discourse in Chapter 7. To further explore the perceived benefits of this practice to members of the UK and US cultures in a qualitative analysis of the practice, I draw upon the work of geographers and anthropologists who have conducted ethnographic and auto-ethnographic research to inform their review of specific receiving family subcultures.

Much of the non-geographical work on families formed through practices of adoption practice focus on areas of receiving family differences, often regarded as sensitive, contentious or proscribed within the UK and US cultures. Yet, these works seldom include a multinational comparison of cultural reception to TNA that I will attempt in the examination of UK and US cultures in Chapter 7. New areas of study have emerged with increased public exposure to family building topics traditionally viewed as 'private' (Yngvesson, 2007, et. al). A few early studies depicted receiving families as a relatively un-problematized population because the presumed motive for TNA was altruistic and culturally supported. As a result, a large segment of research on adoption focuses on the placement of children with special needs (Babb and Laws, 1997; Babb, 1999; Keck and Kupecky, 1998), foster care adoptions and the adoption of abused children (Triseliotis, 1973; Triseliotis et al., 1997) and studies on the detrimental effect of

class differences in child placements (Solnit, et al. 1992). In general, I have limited inclusion of works focusing specifically on domestic adoption. My reasons for this exclusion are that the humanitarian motive for TNA and the evidence of global need for child protection has often obscured all but the most evident differences between TNA receiving families and families formed through other methods. Instead, I will examine the notion of geographic difference within receiving families as a factor in the cultural characterization of the practice, although not explicitly recognized under either UK or US law.

Therefore, I drew more heavily from the less sizable collection of studies that specifically evaluate cultural reception to families formed through TNA. These works focus on family experiences with transracial placements (Simon and Roorda, 2000; Simon and Alstein, 1977), adoptee identity and adjustment issues (Yngvesson and Mahoney, 2000; Yngvesson, 2002) or compiled commentaries of experts on the different experiences of families who receiving children with undocumented or untreated pre-existing health conditions or physiological traumas suffered prior to adoption (Miller, 2005). As a group, I believe these various areas of research have the effect of heightening cultural awareness about TNA receiving family differences only within selected areas. To build my argument that receiving families are a global population characterized by geographic differences, I have looked at these works alongside empirical research with various media depictions of receiving families. I believe that the primary challenges routinely experienced by receiving families, particularly those emanating from scales beyond the immediate domestic realm are common across national contexts and merit further comparative research.

Instead, the focus of much of the anthropological work on TNA has historically not explicitly measured geographic differences between children and receiving families. Although 'success' of receiving families has been the focus of

some qualitative studies of TNA assessments (Rycus et al., 2006), this criterion largely derives from evaluations of intra-familial responses and not comparisons of family characterizations. Overall, ethnomethodologies do not support a thorough examination of family scale since the size of the focus groups are too small, and the study questions perpetuate rhetorical descriptors without interrogating their cultural or individual meaning. As a result, the majority of these works focus on adoptee adjustment, adoptees from certain locations of origin or adoptees of particular racial groups, rather than theorizing on the collective experiences of receiving families on national and international scales.

Believing that the conclusions of research based on ethnomethodologies fail to render broadly applicable findings, I do not draw extensively from research that relies solely on ethnographic research methods with adoptive families to evaluate family depictions (e.g. Simon and Roorda, 2000; Goldstein et. al., 1979). For instance, some qualitative studies incorrectly presume that adoption 'success' correlates to cultural normalcy. One such analysis surveyed adoptee's feelings about their birth country several years following adoption, their educational performance and other psychometric indices to support the argument that geographical, racial or cultural differences are immaterial (Simon, et al. 1994, pp. 64-72). More recent research on adopted or 'looked-after' children that evaluates placement 'success' according to more culturally progressive terms of ethnic awareness, cultural identity and self-esteem still fails to examine the collective differences of receiving families (Yorburg, 2002, p. 1-6; Robinson, 2000, pp. 3-24; Hollingsworth, 2008). Other ethnographic research has attempted to go beyond a mere evaluation of placement 'success' as understood on the family level. Yet, researchers use their findings to suggest that interracial or intercountry adoptions broadly 'challenge race, gender and class hierarchies' by engaging in forms of resistance to dominant narratives about interfamilial differences without discussing the preceding cultural assumptions or

characterizations (Moosnick, 2004; Yngvesson, 1997). In distinction from these works, the focus of this examination is on the quality of geographic difference as an authentic and universal point of distinction for this family population. Such a task mandates careful analysis of differences frequently implied within discourse rhetoric and not expressed directly within the contemporary characterizations of receiving families.

My work on the cultural depiction of TNA draws on recent work on narrative analysis within cultural discourse based on an approach to qualitative analysis developed within contemporary cultural memory studies. In particular, I look to works that further develop the notions of Yngvesson and Moosnick (2000) around adoption as a culturally transformational process and to suggest that receiving family geographic differences offer a means for cultural redemption or reclamation. My exploration of TNA receiving family narratives spans UK and US cultural responses and, in this, I aim to suggest that commonalities among receiving families come from similarities in the economic legal and technical intensity are neither uniformly inscribed or superficially evident. The cultural narratives of TNA pervade the interpretation of law and required economics in under-appreciated ways. In addition to the work of Küchler (2001), archaeologist Beverley Butler (2007) suggests very compelling avenues to expose the narrative constructs within the UK and US as expressions of memorializing notions of the traditional family. Butler's theories on cultural redemption, although based on her studies of material and object archives, pertain to the current objectification of transnational adopted children in ways that re-engage notions of distance and separation. Butler notes that the in preserving culturally 'sacred' and highly valued objects, conceptual categorizations turn into contested, memorial areas. In an analogous manner - particularly in debates around the main scales of intent for TNA as an act of global altruism or a localized remedy for infertility - the conflict over the

conception of children and the creation of families is played out in cultural arenas.

To illustrate the relevance of Butler's theories to this study of TNA, I have regarded the fascinating work of Laura Briggs (2003, 2008), who traced changes in the visual narratology of TNA through photographs of 'rescue', Mieke Bal's (1985) work on narrative theory, and studies of collective acts of memory (Halbwachs and Closer, 1992; Bal, et al., 1999, etc.). I also regarded from recent work by leading cultural memory theorists and cultural critics in various areas such as political theorist Paul Connerton's (1989, 2009) on ideas about memory selectivity and cultural forgetting and Andreas Huyssen's (1986, 1995, 2003) theories on both the political value of memory organization in the cultural construction of modernity are valuable to this analysis. Each work indicates approach to examining the intent of TNA across scales and informs themes around the cultural ambivalence that now characterizes TNA. Ironically, the study of memory supports the cultivation of forward looking and innovative understanding of cultural responses. I firmly believe that my exploration of memory within TNA enables me to surpass the tendency to recapitulate cultural traditions and semiotics around the family that conscribe many cultural reviews of this modern practice.

Returning to a Re-Creation of Modern Family Political Economies

To bring together the literal and conceptual aspects of the receiving family characterization, I will explore various aspects of family political economies that go into the cultural characterization of this practice as distinctly modern. Many elements in the receiving family population are directly quantifiable although

observable through economic exchanges or references within public discourse. I take inspiration for my qualitative examination of this population from comparative cultural theorist and social anthropologist Arjun Appadurai, who aptly noted that 'modernity is decisively at large, irregularly self-conscious, and unevenly experienced' (Epidural, 1996, p.3). Feminist theorist, Donna Hardaway comments on the modern Western propensity for commoditisation in a manner that enables a new reading of the difference between TNA policy ideology, TNA practices and public perception of those practices. Hardaway writes that the 'preoccupation with protectionism that has characterized so much parochial Western discourse and practice seems to have hypertrophied into something quite marvellous: the whole world is remade in the image of commodity production' (Hardaway 1992, p. 292-37). I understand Hardaway to suggest here that, in the West at least, all practices can be depicted as a form of production and are subject to being commodity driven, even practices that traditionally are held as completely commodifiable.

In looking to cultivate an understanding of receiving family political economies, I have considered on the work of feminist legal analyst Janet Dolgin (1999) who writes about the legal economies of TNA in a way that supports this cultural analysis. I am in full alignment with Dolgin's suggestion that the transformation of the relational into the economic is fundamentally a legal process. Dolgin, echoing Appadurai's claim about the unevenness of modernity and Hardaway's notion of economic pervasiveness, goes further to offer reasons why she feels that aspects of modernity that involve commodification often generate cultural unease. She writes

In a universe in which commitments and loyalties are to justify the unequal treatment of certain groups (e.g. women) by reference to natural or biological differences among groups, a vision of family defined largely in terms of contract relationship understood in contract terms, promises equality, choice, and the freedom to enjoy

that choice. However, this vision threatens families with a loss of relational anchors and with the potential commodification of family members, with, for instance, the possibility of purchasing or selling babies (1997, p. 75).

Dolgin goes further to say that choice and the perception of excess choice, which I apply here to interpret reproductive electives, overburdens societies. In a statement that I believe describes the cultural ambivalence around TNA receiving family geographic differences, Dolgin maintains that 'choice disguises other choices and the implication of each set of choices is blurred' (p 6). In a similar manner, Marilyn Strathern (1999) observes the social investment implied within ideas of choice. She suggests that choices proliferate even in the families as pertains to an increase in choice is positively associated with progress and expanded notions of social benefit (per the theories of John Stuart Mill, 1897; Chomsky and Macedo, 2000; Chomsky and Foucault, 2006, and others). Thus, Dolgin suggests that societies may have the presumption that the unlimited expansion of choice is positive; however, in selected circumstances such as family building, cultures may actually prefer to curb or mask choices to preserve the external semblance of traditionality (1999, p.11).

Several anthropologically based studies attempt to re-define the notion of the family in ways that account for legal, cultural, technological changes. These studies are fruitful steps to understand the nature of family in ways that may inform the understanding of TNA relatedness and the mapping of family geographies. Norweigan anthropologist Irene Levin (1999) explores the 21st century family through fieldwork studies involving family mapping. She first begins with an essential notion of family in which she attempts to find practical ways to express simultaneous notions of individuality as well as intimate connection. Levin writes 'in everyday language "family" relates to a social group that is biologically, legally and emotionally connected. The concept family

can also connote the quality of a relationship much as the word “familiar” means something known to you’ (1999, p. 94). In a related attempt to interrogate the role of biological connections in generating intimacy, anthropologist Signe Howell (2003) examined the Norwegian cultural practice of ‘kinning’ in her ethnographic studies of TNA receiving families. Practices of making familial bonds and connectedness that she describes as ‘kinning’ she suggests, express the desire of adoptive parents to transform differences as apparent as race through dramas and pseudo-religious performances of ‘transubstantiation’. Howell suggests that creating ‘kin is a universal process, marked in all societies by various rites of passage that ensure kinned subjectification, but that it has generally not been recognized as such’. She describes the kinning as a process that ‘involves what I call a transubstantiation of the children’s essence, adoptive parents enroll their adopted children into a kinned trajectory that overlaps their own’ (p. 465-6). Howell narrates a ritual of connection to replicate biological relatedness through a process of self-transformation. In yet another approach, Sara Franklin explores the emerging capabilities for mapping routes of biological materials (or ‘biocapital’) in commercial ‘bioprospecting’ transfers to create a market similar to what now typifies the contemporary reproductive health care industry (2006a, 2006b).

Transnational Relationships and Globalized Family Types

To cultivate an awareness of receiving family political economies more explicitly, I looked to the recent work of political geographer Martin Jones (2008) who recently called for a ‘recovery’ of the political in the conceptualization of economics and politics within social units. Jones’s stated aim was to ‘defin[e] a distinctive space for political economy within geography understood as ways of capturing political, economic, social and cultural worlds as a moving, spatial

matrix of possibilities under capitalism' (p. 378) I found his approach particularly helpful in my search for conceptual alternatives that did not replicate the polarized view of receiving families as either 'sacred' or 'profane', as initially framed by Elizabeth Hirschman (1991) and further developed in the writings of Sarah Franklin and Hélène Ragone (1998) on cultural responses to advanced reproductive technologies, Higgins and Smith (2000) on increases in adoption marketing strategies. I presume his argument to essentially beg for an amendment in the current understanding of social politics in material practices that, similar to Zelizer's (1985) notion of the 'priceless'-ness of family relationships or Margaret Radin's (1996) proposal for partial commodification, defies the conclusion that familial and economic activities are incommensurable to or necessarily destructive of family kinships. Instead, Jones insists on a study of political economies that is 'predicated on multiple causalities and interested more in senses of aliveness than a more deterministic style of explanation' (p. 381). I took this to recursively affirm and explicate the current complexity in the conceptualization of TNA families that I found within my empirical discourse analysis of the three receiving family narratives of family building now dominating US and UK discourse on the practice.

In contrast to other theorists, I found Jones' remarks a particularly useful tool for rethinking the conjoined elements of space, region, public policy that are also virtually indistinguishable characteristics of the global class of receiving families. More to the point, Jones suggests a middle path that practically engages with the elements of TNA economies and the capitalist UK and US systems that enable multiple types of family building contracting. Jones says that 'CPE [cultural political economy] has missing links if it can be seen as a basis for providing a dialogue between post-structuralism and Marxism, and in doing so capturing new intellectual currents, whilst emphasising fundamental continuities within capitalism' (p. 379). Stated more broadly, Giddens (1987) suggests the

link between cultural production and the legal constructs and descriptors that frame activities such as reproduction. Interpreting Jones in reference to this project, I understood him to mean that instead of populating understandings of TNA with what he calls 'one dimensionalisms', he wants to transcend the polarities of Neo-Marxian and post-structuralist understandings of the confluence of economics, culture and politics within social constructs. In comparison to other thinkers, Jones' approach to conceiving of political economies can be seen as an alternative version of Sunstein's proposition about the optimization of rights regimes. Both suggest a redefinition of interests that includes social responsibilities alongside the conveyance of rights. In the end, the reconceptualization of the political economies of social groups that both authors suggests can be read as a valuable means to resist the enforcement of established polemics and models, a key intent of this project.

Based on empirical studies of changes in TNA patterns relative to increased restrictions to adoption imposed by sending countries and newly expanded adoptee repatriation policies by historically large sending countries to the UK and US, I have explored existing theoretical work around the civic stability and cohesion of receiving families. Analysing the political geographies of receiving families is a new and under-researched area that, although based on practice facts, defies current culturally assigned categorizes. In my study of shifting elements in the political attributes of families, I have read related works by political geographers and sociologists whose work discusses themes of real and conceptual global citizenships global family types and child immigrant groups in detail (e.g. Malkki, 1994, 1996; Ballin and Hirsch, 1999). For instance, in studies on global family types, political geographers Duncan and Smith (2002) explore the accuracy of measuring family demographics along prescribed 'traditional' family categories, groupings that they argue perpetuate assumed gender roles and jeopardize the accuracy of demographic analysis. Instead,

Duncan and Smith propose the use of a broader range of census data to include other measures of family socioeconomic diversity. With the inclusion of a wider and more refined set of measures, they argue that population analysis will not only be more accurate but suggest this process may effect a necessary re-categorization of families. Their findings indicate avenues to reduce the impact of biases such as engenderment that prevent the accurate measurement, categorization and analysis of reproductive geographies that are based findings of census reports.

Reading between social theory and the varying interpretations of TNA family building, the right to reproduce and the child's best interest can be viewed as interrelated. The extension of universal human rights to children is also an illustrative area in which to explore inconsistencies in the reproduction of social norms over space such as national borders or developmental levels. Understood within Janet Carsten's (2000, 2004) theories of social production within family law, international child protection law can be construed as social reproduction in which families are agents for social reformation either globally or within receiving cultures. Alternatively, receiving family agency also expresses a re-creation of knowledge about the act of reproduction. In contracting for reproductive assistance and recreating biological links through ritualistic practices as in Howell's account of 'kinning', receiving families are not merely subjective creations of the law as suggested by Ynvgeßson (2007) but also agents of knowledge about family building. Therefore, while I look at theorists who speak to the similarities between TNA receiving families and other families that depend upon the use assisted reproductive technologies to form kinships, such as Sarah Franklin (2001, 2003, 2006), I also draw from works that inform my exploration of the foundational knowledge that goes into the quality of family agency. This resonates with Marilyn Strathern's (2005) description of 'specific knowledge practices' that can create social qualities that cannot be reduced into

polarized descriptions. Strathern asserts that knowledge generating practices such as those involved in TNA, will overcome individual familial differences to reveal wider commonalties of meaning within the creation of a national population of receiving families and, as I argue throughout this project, a global population.

Conclusion

In spite of the range non-scholarly and scholarly works, TNA is not a mature and well-researched topic. To some extent, the relative absence of detailed and longitudinal studies on the political economies of receiving families that prevented total exclusion of any class of literature has benefited this research in unanticipated ways. As detailed in this review, much of the general work on child adoption or specific examinations TNA have failed to measure the impact of changes in the global law and process technologies. To research specific topics related to the regulation, economics and cultural figuration of TNA receiving families, I strategically selected works that most closely addressed the needs and aims of this project. This survey reviewed theories from various areas of scholarship that relate to the notion of scale in order to expand the content of TNA research, to reassess existing perspectives on TNA and to add new evidence to existing TNA research.

In practical terms, the literature strategy used for this project both interrogated the current manner in which TNA has been variously categorized as a humanitarian act, an expression of civil rights interests or an exercise of children's interests among others. To tease out the various understandings of practice intent and cultural valuation for the TNA practice and the receiving

families produced through this family development method, I have regarded works that include the most salient topical concerns about this practice. This comprehensive research on TNA families necessitated a focused and very attentive engagement with and integration of a cross-disciplinary range of literature, much of which aimed to study topics other than the TNA practice itself. I organized this survey of reviewed literature into categories of **Global Construction and Regulation of TNA Families**, the **Commodification of TNA Family Building** and the **Geographies of Modern Kinship**. As I reviewed the key works from which I developed an analytical approach and theoretical inspiration, I have highlighted critical differences in the method, aims and approach of this project from that of the existing literature that has defined the terms of the current discourse on this practice.

My strategy for surveying this diverse set of materials was responsive to practical limitations, conceptual limitations and desired project aims. In contrast with the limited number of works that specifically engage with TNA receiving families, the overall approach used in this project to research these families constitutes a critical difference from the most closely related works in the disciplines of social work, anthropology and sociology. Reading across diverse works with this strategic aim has been a major challenge of this research project. Yet, the effort also contributed positively to the overall originality and robustness of research in several ways. On one hand, drawing out common elements of scale across works supported a means by which TNA receiving families further not just geographical but cross-disciplinary works. Each of these themes are based upon branches of traditional and emergent geography with an emphasis on engagement with studies in legal and economic geography that assess related themes of global care economics, transnational families and international biological commodification.

In theorizing new ways to research TNA receiving families, this work relies upon an approach that integrates behavioural economics and global legal pluralism to support research aimed at cultivating productive policy change. I aim to contest the claims that family building and economics are separate and incommensurable within any scale of family building practices, based on the theories of Zelizer (1985; 2007) and others. In critical respects, this research differs, from sub disciplines of geography and anthropology that are preoccupied with exploring childhood agency or global markets of biological materials. As recently as 2008, the changes in the national and international regulation of TNA in accordance with the UK and US full accession into the terms of the Hague Convention have generated new imperatives for further study on this practice. These needs are impelled both by scholarly interest in informing the direction of changes in national and local social policies as well as general imperatives to effectively manage an expanding range of new, process-altering technologies within global family building practices. It is a critical aim of this work to address these concerns based on a comprehensive and enriched theoretical understanding of the multiple scales of this complex family building practice.

Chapter 3

Methods and Approaches to the Study of TNA Receiving Family Geographies

Challenging Methodological Norms and Leveraging Opportunities with TNA Macro-Trend Analysis

The research methodologies used in this project's investigation of the political, economic and cultural geographies of transnational child adoption and the multinational receiving family populations contribute directly to the originality of this study. In addition to the geographic approach taken in this analysis of current practice facts, the methodologies increased the comprehensiveness of this examination, supported more detailed chapter analyses and increased the soundness of theoretical conclusions. Unlike much of the existing research on TNA, the methods I selected to analyse several underexplored aspects of the modern TNA practice relied on analytical techniques aimed at addressing existing gaps in research and adding a factual basis for theoretical explorations of the possible impact of this reproductive method on the receiving countries in which these families reside. Within each substantive chapter of this project, excluding the formal review of the regulations governing the TNA practices of UK and US families in Chapter 5, I have strategically used a mixture of quantitative and qualitative research methods to address improve the comprehensiveness of research on this culturally contested and rapidly evolving family type. This mixed method approach enabled me to best analyse data at varying levels of quality and commensurability as well as to launch new avenues of research on globalized reproductive practices, to be furthered in later projects (Denzin and Lincoln, 1998).

Using a mixture of quantitative and qualitative research methodologies, as outlined in Tashakkori and Teddlie (2003) and Thomas (2003), I have embedded a statistical trend analyses of the UK, US and global TNA practices to found qualitative practice reviews, using data obtained from my own empirical research as well as from other closely related studies. By embedding quantitative research within the qualitative practice analyses, I was not only able to verify the accuracy of several of the most common conclusions about TNA conveyed within receiving country cultural discourse I was also to investigate the historical and cultural contexts upon which these notions are founded.

I elected to use a mixed methodology based on my interest in responding to questions about several 'puzzling observation[s]' about TNA that included: unverified assumptions about practice prevalence, potential conflicts in the governing laws and inaccuracies in the characterizations of receiving families. To investigate these particular areas, I relied upon abductive reasoning in particular to approach my evaluation of the unique and routinely occurring TNA process idiosyncrasies and to support my desire to prevent the uncritical perpetuation of inaccurate assumptions that I found within many practice depictions (Walton, 2004; Aliseda, 2006, p.28). By using methods to suit these aims, I was able to expand research on TNA policy changes to evaluate new areas such as receiving family access to state assistance, health care entitlements and knowledge on reproductive contracting. Building upon this initial effort, I hope to later support the much-needed policy optimization efforts initiated by UK and US governmental agencies as well as add to collaborative research ventures, co-sponsored with NGOs, which aim to inform future regulation of the reproductive health care industry. Some of the leading global research institutes with histories of analysing international reproductive practice regulation include the UK Institute for Public Policy Research (ippr), the UK Human Fertilization

and Embryology Authority (HFEA), the US based Rand Corporation and the Max Planck Society, Social and Behavioural Sciences division in Germany, and the European Society of Human Reproduction and Embryology (ESHRE) in Belgium, among others.

The embedded quantitative research design of this project explicitly aims to contribute to a more comprehensive, coordinated and multinational assessment of reproductive than has been attempted within much of the existing research on routinely contracted for family building practices. Historically, studies on TNA have not reviewed commonalities across various global family building practices or investigated similarities in the populations of families electing for international, rather than domestic, forms of reproduction. Several factors have hindered such research. One of the most compelling causes for gaps in research on TNA include longstanding cultural concerns, especially in the UK and the US, about protecting the privacy of family subjects in in-depth research projects on topics of reproduction and sexuality. This concern appears particularly keen when the primary topic of research is the impact of required costs or evaluative economies within reproductive decision-making or biological transfers for reproductive practices (as explored in Franklin, 1997; Zelizer, 2000; Zeibe and Devroey, 2008, etc.). Another hindrance to research has been the concern that detailed TNA practice investigations will somehow jeopardize the welfare protections set up for children. I do not challenge the merit of these concerns. Instead, I believe that my choice of methodologies is very responsive to these issues. The methods I have selected for this research work expose inaccuracies in communications on the practice and possible misapprehensions in cultural views that can, I maintain, more profoundly threaten family interests with excessive state intrusion into acts of family building.

Therefore, the methodology and geographic approach of this research are major points of difference between this project and much of the existing research on TNA. I believe these differences allowed me to pursue several new research paths. First, my approach is wider in scope, which in turn, supports the originality of this study overall. For instance, the early legal and sociological research completed by US attorney Elizabeth Bartholet is, what could be regarded, action-orientated study (Kitchin and Tate, 2000). Bartholet's examinations primarily assess the processes of US receiving families who have adopted children from China. While I do not belittle the value of Bartholet's (1993) early studies with subject groups of limited size, her broader examinations of family building governance and infertility (1999a, 1999b) and Bartholet and Hall's (2007) more recent commentary on receiving family experiences under the governance of the Hague Convention are limited. I argue that neither group of works specifically aims to render a multinational analysis of the changes occurring in the global practice or the multiple populations of receiving families. In general, I argue here that the analytical scale of most ethnographically based research is not wide enough to yield conclusions that are accurate for populations outside of the purposive sample group (Sofaer, 1999). For that reason, I opted to avoid ethnomethodologies and, instead, use research methods that would enable a direct demographic analysis of the populations created by this global practice.

Second, I interrogate the conceptual breadth and accuracy of qualitative research based primarily, or exclusively, on ethnographic research methodologies. For example, Rita J. Simon and Rhonda M. Roorda (2000) evaluated family experiences and cultural responses to transracial adoptions in the US. Their review interrogated key cultural assumptions about the value of biological connections in kinship formation, drawing principally from in-depth interviews with receiving families and adoptees. While the aims of their research

approximated those of this study, e.g. to interrogate cultural assumptions about the differences of a particular category of receiving families, Simon and Roorda relied upon a small group of in-depth family case study analyses to develop their conclusions. Using this method primarily, their findings did not include a significant quantitative review of transracial practices that might have afforded their conclusions broader applicability. Since their work fails to draw in extensive quantitative research, I found their work limited because it omitted consideration of the potentially determinative and underlying factors of economies, legal requirements and rhetorical descriptors as valuable aspects in the creation of meaning for subjects across the practice. Some scholars have argued the merit of ethnographic research variations that prominently critique very fundamental cultural mores and research assumptions and specifically include assessments of knowledge production, as suggested in Clough's (1992) feminist based denunciation of the presumption that 'ethnographic realism' (p. 136) is completely objective. Clough sets forth the idea that ethnographic methods can substitute for an informed narrative analysis of human experiences. For the purposes set out for this study, however, I do not believe that ethnographic methods are the most direct means to analyse globalized knowledge production or an efficient means to assess multiple scales of the TNA practice.

Notably, I did not employ direct testimony from receiving families, conduct focus groups or administer questionnaires to receiving family groups. My decision not to use these primary sources was deliberate. From a strategic standpoint, I feel that direct subject inquiry is an impractical, inefficient and indirect means to assess global population trends and yields insufficiently narrow findings for valid theoretical development for international groups. I believe that open and closed test environments, even with multiple respondents, are ultimately not well suited to generate conclusive global findings or to

contribute to inferential development of cross-cultural theories (Johnson and Turner, 2003). Although direct petitioning is a customary research rigour in qualitative evaluations of kinships and is associated with 'authenticity' in social research projects, I conversely argue that the rhetorical language that saturates methods of direct inquiry are not well suited to initiate in-depth interrogations of the meanings and values contained therein. Rather, I aim to explore the social construction of the terms themselves in an effort to 'define conditional statements that interpret how subjects [as receiving family populations, for instance] construct their realities' (Charmaz, 1983, p. 257). The use of widely used and generally understood rhetorical terms – both culturally specific descriptors as well as the universal legal rhetoric – is virtually mandatory for successful communication in focus group surveys with large numbers of respondents. Yet, I argue that the use of taken-for-granted and variously used terms can unwittingly bias the responses of research subjects in a manner that thwarts the aim of this research to explore their origin and reasons for perpetuation.

Third, in a more pointed summation of my views, I cite the critique issued by analyst Valerie J. Janesick's (2003a, 2003b) critique of the use of ethnographic methodology to generate accurate conclusions about globalized phenomena, such as TNA. In her appraisal of ethnographic methods used in educational research, Janesick uses the term 'methodolatry' (2003b, p. 46) as a denouncement of the blind adherence to methods that, in her view, obscure a greater understanding of story content or ideological foundations. Although a sharp expression, Janesick's (2003a) critique highlights the need for research to support not only the production of locally accurate conclusions but also cultivate applicable theories on wider scales. Responding to this point, I have avoided taking up an epistemological approach that is contingent on the exclusive use of a particular methodology. I have resisted approaches that aim to affirm

preconceived hypothetical ends or are insufficiently comprehensive to support multi-scaled research.

Applying Grounded Theory Principles to Approach TNA Research

In response to these methodological concerns, I approached this research on TNA geographies based on the notions of grounded qualitative theory first set out by Glaser and Strauss (1967) and continued in Strauss and Corbin (1997, 1998) and Corbin et al. (2008). Both works explicate the benefit of grounded theory for improving the accuracy of research findings as well as for tailoring research methods to suit the investigations at hand. Simply defined, grounded qualitative research used to investigate various topics in the social sciences, health sciences and information systems. Grounded theory, as conceived by Corbin and Strauss (2008), is a systematized approach to qualitative content analysis that relies primarily on assessing evidence according to objective criteria (including quantitative data, diagrams, theoretical sampling, and other techniques) rather than open-ended questioning. I believe that grounding qualitative research in quantitative analysis improves the accuracy of findings and widens the applicability of qualitative evaluations across geographical areas. In this study of TNA geographies, grounded theory supported a more in-depth study in areas such as the jurisdictional variations in the presumed TNA practice intent.

One benefit of this approach is that grounding qualitative analysis in an objective framework enabled me to fulfil a stated aim of this project - to challenge the uncritical perpetuation or repetition of 'grand theories' or meta-narratives (Lyotard, 1984). Another benefit in applying grounded theory was that, as

described by Medical sociologist Kathy Charmaz, the inclusion of quantitative research within qualitative conclusions ‘constructs an image of *a* reality, not *the* reality’ (1983 p. 272). In my research, I found that grounding qualitative analyses was especially suited to preventing the development of static conclusions about this rapidly evolving practice. Yet another benefit of this approach was that I gained a high degree of analytical responsiveness to new sources of data and current events over the course of the research period, which continued to shape my conclusions about this rapidly evolving practice (Blumer, 1969; Glaser and Strauss, 1967). Overall, I believe my application of grounded theory enabled a more thorough analysis of variations in the national populations of receiving families than was supported by ethnographic or other, phenomenological methods of market evaluation alone (Strauss and Corbin, 1998; Goulding, 2002).

The grounded theory approach was particularly supportive for TNA research on TNA in three fundamental areas. First, grounded theory enabled me to obtain and to prioritize review of a considerable volume of evidence about the practice, spanning from sources as diverse as government publications and mainstream media reports. Given that there is an absence of consistently high quality data sets on TNA, which mandated my consideration of a wider range of practice facts than have routinely been evaluated within qualitative practice analyses. Out of this necessity, I was able to explore innovative theories about the practice. Additionally, the absence of data commensurability hindered my development of theories that could accurately be applied to all primary TNA receiving nations. In response, I confined this research to a more detailed comparison of UK and US, two countries that had more commensurate datasets and cultural traditions around family building. Although I reviewed a broad range of information on TNA for these two countries, my qualitative analysis remained focused on using these varied resources to create understandings about multiple practice scales (Morse and Field, 1995; Strauss and Corbin, 1990).

Simply put, grounded theory contributed to both the overall accuracy as well as the comprehensiveness of this research.

Second, grounded theory supported my primary aim of interrogating the range of unfounded hypotheses about the TNA practice now circulating on national and global scales. As in Eaves (2001), who argued the merit of using grounded theory to narrow interpretive fields and evaluate options across fields of compelling alternatives, I also found this process helped to situate my research within existing cross disciplinary studies. According to Glaser and Straus (1967), 'in discovering theory, one generates conceptual categories or their properties from evidence, then the evidence from which the category emerged is used to illustrate the concept' (p. 23). I have understood this to mean that a review of a mixture of evidence, rather than merely affirming a desired hypothesis or culturally normalized idea, actually enhanced the practical applicability of my data analyses and aided me through review of a sizeable amount of variously useful discourse content.

Third, my combined use of mixed qualitative and quantitative techniques, based on principles of grounded theory, compensated for poor TNA data quality overall, the lack of access to adequate data and the incommensurability of data across receiving countries. I relied upon embedded quantitative research techniques in an effort to strengthen the support the accuracy of my qualitative research findings beyond current norms (Murray, 2003; Tashakkori and Teddlie, 2003 et al.). Drawing together qualitative and quantitative research elements, I was able to increase the overall robustness of my research findings and maintain my intended scope of research (Hoferth and Casper, 2007). Of all the methods, I employed comparative methods most extensively in my evaluation of TNA processes. As suggested by Ambert, et al. (1995), who used embedded quantitative analytical methods to support a theoretical evaluation of children's

consumption patterns within family economic behaviour, I read across TNA trend data to support comparisons of TNA practice depictions in the UK and the US.

My reasons for electing not to use methods of direct inquiry were also practical and based on the very limited avenues for accessing a number receiving family respondents that is sufficiently diverse to generate accurate findings about the national population of receiving families (Hofferth and Casper, 2007). First, I experience that even academic researchers have an extremely restricted access to a large number of TNA receiving parents who could be research subjects. Access to detailed family data was very limited because of concerns about the potential compromise that research might pose to the confidentiality of individual families and a threat to the general welfare of child adoptees. For example, even after direct written petitioning in advance, I was denied authorization to observe a UNCRC plenary review session held at the New York UN office in 2008 to support my analysis of the legal history and evaluation of the current governance process. Similarly, I was able to observe a prospective parent introductory information session on the UK adoption process held by the Kensington and Chelsea council authority in 2007. Yet, I was denied access to observe similar meetings at other London council authorities in 2007 and 2008 that are also approved to facilitate the placements of foreign children (Camden North London and Westminster). Such restrictions limited fieldwork opportunities in which I aimed to evaluate the types of information on TNA customarily provided to parents before placement. Since family building involves issues around personal medical histories and potentially sizeable investments in family building, it is understandably a top priority for local authorities to maintain the confidentiality of prospective parent record and restrict the potential use of that data for ends that are not directly for their benefit or in their interests. I have respected this position and the privacy of prospective

parents who are making a great personal investment in this method of family building in my selection of methods.

To make best use of grounded theory in this study, I avoided the use of more abstract techniques such as discourse abstraction and evidence coding. Although these tools are commonly used in research that adheres strictly to a grounded theory approach, particularly in studies of information systems and market research, I found these techniques less useful to address the specific aims of this geographically based research. Instead, I tailored techniques to respond to the evolving research environment that characterised TNA and borrowed selected techniques of embedded quantitative research, comparative analyses and discourse content review to support an organization of recurring practice concepts and family categories (Miller, 1986; Greenstein, 2001; Strauss and Corbin, 1998). Ultimately, my use of grounded theory was part of a strategic effort to ensure the practical utility of this research in non-academic channels. The insistence on ensuring the applicability of my findings is well aligned with - and also inspired by - the growing reciprocity between scholarly research and practical policy optimization work, now popularized in the UK and US government inclusion of more scholarly and NGO research within policy development, a trend referred to in the UK as 'evidence based policy' (Pawson, 2006).

Methodological Strategy for Quantitative and Qualitative Analysis of TNA Demographics, Law, Economics and Cultural Representation

Within each substantive chapter, I made optimal use of available data to examine under-researched areas of the TNA practice, such as between the

economic and political characteristics of receiving family populations in the UK and the US (De Vaus, 2001). The philosophical approach I used for selecting research methods matched 'the value of particular approaches in particular circumstances' (Pawson, 2006, p. 50). Therefore, the methodologies I used within this project cannot be considered merely 'creative', but rather directly responsive to the practical complexities of researching emerging areas of transnational family populations (Bryceson and Vourela, 2002, etc.), the use of reproductive technologies, and family political economies (Giri, 2004). My primary techniques included statistical review, unstructured case study analysis, predictive legal review, discourse content analysis and theoretical cultural review.

In response to restricted access to large sample sizes of research subjects and to overcome obstacles to subject access posed by these gatekeepers, I adjusted my research questions and methods to make best use of the increasing stores of publicly available information on TNA. For instance, I triangulated data across sources within most of this project's analyses in order to verify the accuracy of findings regarding placement costs estimates derived from governmental and NGO sources (Leech and Onwuegbuzie, 2007). In each chapter, I have suggested methods for future studies that focus on assessments of family development choices within several of the key receiving countries.

Demographic Research Methods and Qualifying Family Civic Attributes

The initial substantive chapter of this project is a two part comparative demographic analysis of the TNA receiving family populations in the UK and the US. The first segment quantitatively studies the global trends in the TNA practice and compares the longitudinal UK and US national trends in TNA levels

from roughly 2000 to the present. The primary aim of this quantitative analysis was to determine the actual prevalence of the TNA practice, on global and national scales. I wished to verify the accuracy of receiving country accounts that variously implied a high incidence of TNA family building, presumed particular levels of cultural exposure to the practice or suggested that the number of legal child placements were similar to the amount of illegal child placements. To correct these possible misapprehensions, I measured the absolute numbers of children immigrating for purposes of TNA and analysed these figures to the size of other immigrant groups or family types.

Due to the absence of high quality records on TNA placement levels before the mid 1990s, I focused my quantitative analysis on child placements with UK and US parents during the period from 2000 to the present. To obtain necessary datasets, I surveyed data quarterly from 2006 through 2008. Over this period of data collection, I observed an overwhelming increase in accessible data on TNA. Throughout this research phase, the US maintained the highest quality and most accessible statistical information on TNA, but as the US prepared to enter to compliance with the terms of the Hague Convention, there was a corresponding increase in the amount of publicly available quantitative information on TNA. Although data on family building became more accessible, the information related TNA stayed highly decentralized and more difficult to access than data gathered on other aspects of modern family life. Therefore, my research on TNA required consultation with multiple data sources on families, immigration, reproductive practices and other related areas.

Among the variety of national and international data sources I consulted, I relied primarily upon UK and US national government data sources as well as the recordkeeping arms of the multinational governing organizations. The most useful sources for information on US families and US TNA practices were the

USDS, for the annual numbers of TNA placements, annual shifts in primary sending countries and comparison of TNA levels across multiple receiving countries; the USCIS, for overall US trends in immigration and details on citizenship processes; the US Department of Homeland Security (DHS), on the rules for advanced parental verification tests; and the USCB for statistics on families, fertility levels and other population characteristics. One of the most reliable sources for information on UK families was the ONS, where I obtained statistics on overall population changes, trends in family sizes, changes in fertility patterns and household income levels. Additionally, I found useful data on UK TNA process regulations published by the Department of Education and Skills (Health, Well-Being, Care Division) and various UK statistics on adoption from the BAAF, a leading UK NGO specifically dealing with matters of adoption. I also drew from international sources such as the HCCH, for information on the protocols of international private law and the status of ratifying nations; and the UN affiliates UNICEF, for rhetoric on humanitarian, child welfare campaigns, and UNSTATS, that maintains statistics on several areas of human rights. Lastly, I selectively reviewed the archives of leading adoption research institutes and information clearinghouses. These resources included AICAN for longitudinal data on TNA and data on primary receiving or sending country for each nation; Adoption.com and NAIC, two comprehensive clearinghouses for information on statistics, laws and current events about several forms of adoption; the Evan B. Donaldson Adoption Institute for assessments of relative size of the population involved in multiple types of adoption; and the Overseas Adoption Helpline sponsored by the UK Inter-Country Adoption Centre (ICA), for direct petitioning and inquiry on TNA cost statistics and UK processes. I sourced supplemental data from the UK Economic Social Research Council Data (ESRC) data archives and the US-based Child Stats for national statistics on children and families. In analysing the numeric trends of TNA obtained from these various sources, I critically examined and cross-verified to ascertain accuracy and reduce data gaps.

Based on the research findings obtained from my quantitative assessment of global practice trends, I analysed qualitative aspects of receiving family demographic characteristics in the second part of the initial chapter's review of TNA political geography. The aim of my qualitative study was to validate key assumptions circulating within the national media accounts of TNA about the demographic characteristics of the receiving family populations. Again, given the paucity of detail on TNA, I regarded this study as an initial analysis of receiving family demographics, which held the primary aim of identifying elements of the socio-economic and political characteristics of the receiving family population to be further explored in future research. In addition to using the sources listed above, this study also included valuable information from fact-based reports on TNA families published by mainstream media sources such as the BBC and its affiliates; the US newswires UPI, AP within the New York Times, US News and World Reports and other national news journals as well as the data compiled in scholarly studies of TNA detailed in other areas of this work (such as Zelizer, 1985; Spar, 2006; Selman, 2000, etc.). To better understand the relative impact of TNA as a form of family building, I compared trends in family building across methods and triangulating these findings with statistics on medical infertility in the UK and US. For this comparison, I focused on trends in related family building practices of similarly internationalized methods. This work was an effort to further the work of UK demographer Peter Selman (2006), who compared infertility and TNA trends in the context of larger family building and fertility patterns for families residing in EU member nations.

To explore the definitive civic and legal interests of the receiving family demographic group and compare this family population to families formed by alternative methods, I drew from various works by political and cultural geographers writing about other transnational family types (e.g. Blunt, 2005,

2007) and contemporary studies of citizenship diversity (Coutin, 2003). The theoretical and empirical work of these related studies supports my interpretation of practice statistics derived from an empirical review of citizenship processes. My projection of future changes in TNA trends is an effort to respond immediately to observations about recent practice developments. To forecast evolutions in the practice based on current trends, I conducted a very skeletal regression analysis to project future trends in the TNA practice for the UK and the US. In this evaluation, I considered factors such as the timing of US entry into the Hague, shifts in the status of other primary child sending nations, the impact of the recent economic crisis on levels of globalized family building practices, the measurable reductions and increases in UK or US parental access to available children and the initiation of repatriation schemes by key child sending nations.

***Legal Analysis: Humanitarian, Comparative and Family Law Critical
Legislative and Case Law Review***

In the second substantive chapter of this project, I reviewed the current method of TNA governance by conducting a formally styled review of laws now used to regulate TNA processes for UK and US prospective parents. Although the rules of international humanitarian law are not commonly reviewed according to standards of efficacy, as is routine for social or health policy, I have evaluated the efficacy of TNA governance in a specific effort to differentiate in the perceived practice intent across multiple scales of the practice. To evaluate the efficacy of TNA law, I follow format of legal analysis that are customary for preparation of legal memoranda, law review articles and briefs on issues of international civil law. My review follows a CREAC model of analysis (which states the Conclusion, Rules, Explanation, Application, and Conclusion restatement) variation of the IRAC analytical paradigm (Issue, Rule, Application

of Rule and Conclusion), as outlined in Edwards (2006), Huhn (2002), and Garner (2002). I specifically elected to use this analytical format, instead of social science methods of theoretical research of legal concepts, to study conflicts in the points of TNA law and regulatory efficacy in greater depth. I employ formal modes of legal analysis based on the models of Balter (2002) and the application of social science findings within a judicial review as exemplified in Kang's (2005) research on the geographies of racial representations in the media. I will respond to questions about the efficacy of the current regulation in a review of TNA practice evidence (detailed in the preceding chapter's quantitative assessment of family demographics). This is accompanied by a consideration of the persuasive rules of law around reproductive practice governance, key points in the history of national and international TNA regulatory development, and draw upon selective study of case law rulings involving disputes between UK and US parties to TNA. My insistence on using techniques of legal analysis is aimed at increasing the practicality of this social science research, investigating under researched elements of TNA governance and furthering practical approaches policymaking as examined in Campbell's (2007) extensive study of evidence-based policy trends of use in UK government policymaking and Bennett and Howell's earlier studies on the use of theory within policymaking (1992). My approach is well aligned with Campbell's stated aim 'to identify remaining barriers to the effective use of research and analysis and to make practical suggestions for how these might be addressed' (2007, p. 6). In sum, I wish to analyse the human geography of the law in a manner that has an immediate practical value for policy makers.

I address the question of whether and how variations in the interpretation of the universal 'best interests' standard generate practical conflicts with the original intent of the law. I question whether interpretive variations, sanctioned by the UNCRC and Hague measures, impair the intent of the law to ensure

equitable family construction and thus compromise the protection of child welfare. To research this potential conflict, I assess the efficacy of the critical 'best interests of the child' standard across international, national and familial practice scales. This includes an assessment of TNA regulation in relation to current debates on the complexities of measuring regulatory efficacy brought about by the extension of children's rights and the protection of children's physical welfare, understood as the prevention of child abuse or child trafficking.

I begin with a detailed review of the UNCRC and Hague governing instruments. This includes a review of the legal history of these provisions. I examine the evolution in interpretation of the standard language over the period from the initial ratification of the UNCRC instrument in 1989 to the full entry of both nations into the Hague Convention in 2008. Here, I pay special attention to developments in UK and US national laws leading up to entry that were enacted largely to ensure full compliance with the measure. I analyse current interpretations of the law, relative to the long-term history of children's welfare regulation, and children's rights legal history, beginning with regulations to the modern TNA practice in the 1956 UNDRC.

Then, I draw particular attention to critical sections in the UNCRC and Hague law that, in part, contribute to the conflict in the interests of individual TNA receiving family members as well as conflicts in the laws of national adherent countries, e.g. the US and the UK. Then, I examine the current UK and US national policies and the policy positions on execution of the universal UNCRC standard. I link evidence of variations in the perceived intent of the practice and the law to argue that the current method of governance is not efficacious because the regulations fail to stipulate common understanding of the practice intent across all practice jurisdictions (Alston et al., 2005). In this review of the legal rules and standards, I consulted the UNCRC and Hague Convention

documents as well as national UK and US statutory instruments governing the conduct of TNA practices. This examination involved a review of local and national UK and US government informational publications as well as international policy analyses published by international NGOs (such as the UN subsidiary Children's Rights Information Network [CRIN], the UK office of the Hague Convention on Private International Law, the BAAF and other sources) to evaluate the current policies that regulate UK and US TNA placements.

My review of TNA law is grounded in an approach to legal analysis initially developed by legal geographers Blomely (1994, 2001), Ford (2001), and Duncan and Smith (2002) who explored the notions of geographic difference and family political economies within the execution of the law. In my analysis of TNA reproductive governance, I have drawn from legal theorists whose topical areas inform a study of selected areas of TNA process regulation. They include such thinkers as contemporary critical legal theorists (Cass Sunstein, 1991; Naffine, 1992) speaking to rights regimes, developments in modern family law (Freeman, 1984, 1985, 1999; Dorow, 2006; Dolgin, 1999); human rights and interventionism (Alston and MacDonald, 2008); legal economists (Posner and Landes, 1978) on the regulation of reproductive contracting; comparative legal theorists and legal pluralists (Santos, 1987, 1995); proponents of children's welfare protection and human rights (van Bueren, 1995; Detrick, 1999; Freundlich, 2000a, 2000b; Alston and Robinson, 2005); cross-cultural legal scholars (Na'im, 1992); and social policy analysts and social work professionals (Roby, 2007; Sargent, 2003).

Cost and Evaluative Microeconomic Analysis of UK and US Receiving Families

My assessment of TNA receiving family economics is made up of two components. The first segment is a quantitative cost typology analysis that compares the estimated cost levels required for prospective parents in the UK and the US to complete child placement processes. In this study, I have evaluated national variations in key cost driving areas, which notably included contracted assistance with processes of child selection and homestudy assessments. Here, I made a quantitative analysis of UK and US practices based on my empirical research on the average family costs for child selection, family approval, child custody awards and naturalization, agency contracting, and final child placement (Patton, 1990). My data collection strategies were designed to support mixed method analytical techniques that are common to several areas of social science research, as suggested in Johnson and Turner (2003, pp. 279-99). Using qualitative evaluations of these cost categories, I was able to develop an original classification of processes that are now universally required to complete a TNA placement. This cost classification system supports more detailed research on modern reproductive practice cost economies over a broader group of receiving countries.

In the second section of my economic analysis, I assessed the evaluative economies that are essential for modern family building decision-making. To research the evaluative economies of TNA, I identified the core concepts within microeconomic theory developed by economists Becker (1981), and legal economists Landes and Posner (1978), R. Epstein (1995), E. Posner (2000) and others. Then, I reviewed UK and US national economic and social policies to examine differences and trends in reproductive cost controls, affected on familial and national scales. This included a review of the current social assistance policies of each country, since policies on family tax incentives, levels of insurance coverage, employer exclusions and private reproductive financing options directly influence bottom-line reproductive process costs. To review

domestic UK and US social policies pertaining to family development, I initially reviewed the current exclusions offered to TNA receiving families. The primary sources for this evidence were the US Internal Revenue Service, the UK HM Revenue and Customs Office. Additionally, I obtained valuable cost data on TNA from a variety of databases maintained by UK and US reproductive service industry associations who publish reliable information on fertility therapy costs and parental access to reproductive service providers.

To review the national social policies of the UK and the US, I consulted another group of resources that included comparative datasets maintained by the World Health Organization (WHO), the Ford Foundation assessments of the social policies of sending countries, as well as current health care market research by for-contract market research organizations such as the Thompson Network. I also reviewed pertinent databases maintained by organizations of health care professionals such as the European Society for Human Reproduction and Embryology (ESHRE), Human Fertilization and Embryology Authority (HFEA), American Medical Association (AMA). Lastly, I found extensive information on external family building assistance and family building trends within the publications of UK and US private insurers such as the US national and regional Blue Cross Blue Shield insurance company, the Group Health Cooperative health management organization, the UK National Health Service, and various private fertility therapy centres in the UK. Given the extent to which private contracting for TNA is the norm in the US and a critical aspect of many UK practices, I found the private information sources to be particularly beneficial for filling in gaps in the data supplied by UK and US government sources.

Contemporary Discourse Analysis: The Geography of Cultural Family Narratives

In the final substantive chapter of this project, I analysed the figurations of TNA families within cultural discourses in the UK and US. To inform an evaluation of family emotional and relationship geographies, I used qualitative methods to draw from cross-disciplinary works (Massey, 1993; Rose, 2004) from related areas of anthropology (Strathern, 2005; Yngvesson, 2007; Howell, 2003; Anagnost, 2000, etc.), sociology (Casteneda, 2001), historical anthropologists (Melosh, 2002), critical media studies scholars (Marre and Briggs, 2009), and social work professionals (Miall, 1987, 1996, 1989). My study blends a content review of practice depictions within the UK and US across film, video and print media, a case study of analysis of current events about TNA using national media reports and fictionalized accounts, and a theoretical narrative examination drawing on cultural memory studies.

In this assessment, I explore three dominant narratives or receiving family creation that are currently circulating in the UK and the US. This narrative analysis involves a case study review of TNA processes for representative sample of high profile UK and US celebrities as well as a review of the content of fictionalized feature films and informational publications directed for prospective parents. Before reviewing high profile or exceptional processes, I first examined the types of information available on routine TNA practices. In a review of media content from 2006 to 2008, I reviewed information on TNA included in pamphlets prepared by BAAF and analogous US adoption agencies such as Children's Home Society; documentary television programmes and reports by US public broadcasting affiliates and the UK-based BBC radio and television (Pertman, 2000; Babb and Law, 1997); independently produced visual media film and video from the US, UK and Canada (MacClear, 1977; Alpert and

O'Neill, 2005). In my second review, I traced the historical context of public responses and compared modern day depictions with the experiences of well-known participants in TNA practice dating from WWII to the present (Doss, 1949, 2001).

In my final media sweep, I surveyed a wide variety of cultural communications circulating in the UK and the US within print media (including UK Daily Mail, UK Guardian, and the New York Times), and special investigative reports aired on national network television (Schroeder, et al., 2006; Banda and Clayton, 2009). To identify descriptors common to current TNA practices, I reviewed UK and US responses to adoptions by celebrities and high profile UK and US citizens, such as David Miliband (UK), Brad Pitt and Angelina Jolie (US) and Madonna (UK and US). I also reviewed actual and fictionalized disputes about TNA by celebrities seeking to depict TNA practices within films, in an evaluation of the recursive production of knowledge about the TNA practice within the UK and the US (Cohen, 2009; Shore, et al., 2009).

With an understanding of the semantics of the TNA practice (based on the theories of Lyotard, 1984; Foucault, 2006; Derrida, 1996; Kristeva and Moi, 1996; Lacan and Zizeck, 2002; Levinas, 1998; Latour, 1993; Adorno, 2001), I evaluated selected case studies of parental disputes and high profile celebrity adoptions. I studied the extent to which the content, descriptive language and tone of national media accounts of TNA receiving families express broader cultural concerns around international family building as well as reflect the legal rhetoric presented in my review of the law. For this, I looked most closely at the work of anthropologists Marilyn Strathern on the evolution in UK understandings of kinship, Sarah Franklin (1997, 2001, 2003), Franklin, Lurie and Stacy (2000) and Jeanette Edwards (2000) on social production *vis a vis* technology, geographer Cindy Katz (2004) on the global social capital of families, and sociologist Claudia

Casteneda (2002) on the social capital of adoptees and anthropologists Barabara Yngvesson (1997), Ann Anagnost (2000) and Sara Dorow (2006) on the legal construction of families.

In the second section of this chapter, I drew upon my personal research background with cultural memory theorists such as Beverley Butler (1995), and Rowlands and Butler (2007) on the agency of heritage, the regimes of memory by Susanna Radstone and Katherine Hodgkin (2003, 2006), narratives of memory (Bal, et al. 1999) and the selectivity of memory and forgetting by Paul Connerton (1989, 2009) and Forty and Küchler (1999). A vital and innovative component of this narrative assessment was borrowing themes from leading critical thinkers in narratology studies by Bal (1985), the specific agency of family photographs by Hirsch (1999), and the visual narratology of TNA in Briggs (2003) and Marre and Briggs (2009). Borrowing these themes, I analysed the dominant narratives of receiving families and examined differences in the cultural figurations of receiving families between UK and US cultures.

These three representations expressed specific sets of cultural values and traditional understandings of kinship. To explore the narrative content, I explored the origins of cultural values that underpin and perpetuate current cultural figurations within TNA (Strathern, 1992, 2005; Modell, 1997). This analysis was largely informed by themes drawn from contemporary theoretical discourses on the cultural valuation of children, modern kinship and reproductive technologies (Lévi-Strauss, 1969; Carsten, 2000; Edwards and Strathern, 2000). Throughout this chapter, I noted points at which the practice of TNA affirms or contests these shared understandings of family within the specific UK and US cultural contexts. In the end, I suggested that divergent cultural memories about family kinships help constitute and recursively reproduce an underexplored geography of relatedness across the global TNA

practice and receiving family populations. In developing this notion, I looked to existing geographic research by Dyck and Kearns (2006) on emotional geographies, Duncan and Smith (2002) on family geographies and Blunt et al. (2005) on transnational families.

Conclusion: Setting the Foundation for Future Geographic Enquiry and Theoretical Development

Based on a combination of the practical evidentiary constraints and my specific research aims, my reliance on abductive reasoning for this original research allowed me to use a wider range of available information on this and other modern reproductive practices. In considering an expanded range of practice evidence in new ways, I was able to theorize innovatively on the geographies of this globalized family development practice and develop a fact-based understanding of the population characteristics for TNA receiving families. In an effort to trace the cultural subtext for the evident ambivalence around the economic and legal intensities of this complex practice, I strategically elected to use a mixed research methodology that aimed to evaluate the political economics of receiving families (Thomas, 2003). In contrast with many existing studies, which primarily rely upon ethnomethodologies to develop segmented practice understandings, I have followed the theories set forth by research methodology theorist Chong Ho Yu (2006a, 2006b), who described the merits of relying upon abductive investigative reasoning within initial project phases before turning to conceptual processes of deduction and induction in later phases. Initially termed by philosopher C.S. Peirce (in Moore, 1993) as the logic of discovery within the creative process of reasoning, Yu furthers that 'at the stage of abduction, the goal is to explore data, find a pattern, and suggest a plausible hypothesis' (2006a, p. 2). The inferential approach to research analysis

that I use within much of this project applies Yu's (2004) aim of abductive reasoning 'to refine and substantiate research questions', then to lend 'empirical support to conceptual knowledge' (2006b, p.45). In the end, I argue that mixing quantitative and qualitative research methods in this manner is an essential part of a *recursive* research process. Meaning that, these techniques permitted this project to address comprehensive practice evaluation and clearly suggested avenues for further research efforts that innovate approach to family research as well as directed towards making an original contribution to geographic study (Johnson and Onweugbuzie, 2004; Minnameier, 2004).

Yet, my use of grounded theory within embedded quantitative evaluations of global and comparative national TNA trends lead my interpretation of available evidence to constitute more than a 'guess' and instead I evaluated possible conclusions to suggest 'the best explanation based on a set of available alternate explanations' (Yu, 2006, p. 63). This approach enabled me to draw from cultural memory studies to support new interpretations of receiving family characterizations and new theoretical analyses of current events in a way that was not predictive or positivist. As phrased by Yu, 'we don't have to know everything to know something. By the same token, we don't have to screen every false thing to dig out the authentic one. During the process of abduction, the research should be guided by the elements of generality to extract a proper mode of perception' (2006, p. 45). In the end, I believe that TNA is analogous in many respects to other globalized and technically assisted methods of reproduction that are also rapidly evolving and culturally contested.

Therefore, I feel it is especially important that any hypotheses generated about the current TNA practice in this work, or those of other researchers, resist premature or predictive conclusions about receiving family populations behaviours. This belief is founded in Becker's pioneering and insightful notions

about patterns of microeconomic behaviour and the particular economic behaviour of families around reproduction, altruism and other potentially, irrational and non-remunerative 'investments' (Becker, 1981). With an aim to have this project initiate a more detailed study of the global practice of TNA, I feel this work has successfully explored the benefits of abductive reasoning in supporting a tailored and forward-thinking enquiry of concepts about modern reproduction.

Strategic Preparation for Further Research on TNA Receiving Families

The integrated nature of this work is starting point for furthering theoretical analysis of family building trends because it develops an initial conceptual relationship between TNA and other globalized systems of economic and human transfers (Steinberg and Steinberg, 2006; Shuurman, 2004). Michael Goodchild and Donald G. Janelle (2004) describe the undervalued usefulness of visually rendering theoretical assessments of social trends and population identities. In arguing the potential for visual analyses to better expose hidden aspects of these trends, they argue that the simplicity and innocuous nature of representation has a particular potency in exposing culturally specific understandings and memories. In their words,

Spatial analysis is perhaps best seen as an exploratory technique, more suitable for the generation of hypotheses and insights than to strict confirmation of theory. As such, however, its presentation of data in visual form, its use of spatial context, and the power of the eye and brain to detect patterns and anomalies and to recall other information about places from memory form a potent environment for scientific understanding (2004, p. 8).

Furthering their argument, I also believe there is a practical benefit to the use of spatial modelling in the explicative analysis of TNA and global trends in international family building. In line with the recent academic interest in integrating scholarly findings within public policy development, I interrogate UK and US characterizations of receiving families with the aim of rendering the TNA practice within a visual model that contains increasing levels of information on national policy positions and levels of practice economic intensity.

At this writing, very little of the research on topics of fertility, family building practices or patterns of human reproduction have relied upon methods of spatially integrated analysis such as GIS or other geo-spatial representations (Goodchild and Janelle, 2004). The notable exceptions to this claim are the very recent studies of Svenden and Koch (2006) on the spatial criteria used for determining the saturation point in the heath regeneration industry need for human embryos and Schmertmann, et al. (2008) on variations in the fertility 'transition' of females in socially and technologically modernizing areas of Brazil, and few others. The USDS has been one of the only resources to create a global map of the TNA practice, but the maps published by the US government are extremely basic. The USDS maps contain little information beyond the location of origin from where children most frequently originate or the specific placement locations of families within receiving nations.

Yet, several newly developed methods of spatial analysis open new possibilities for the production of TNA representations that enable expression of a more sophisticated category of practice relationships such as between families, sending and receiving country policies or various social policies, as suggested in John Ermisch's (1988) early econometric research on the relationship between UK economic policy and birth rates. I understand that the current level of data quality for the TNA practice may not yet be sufficient to support accurate data-

intensive investigations. Yet, I envision that visual modelling will benefit from better recordkeeping techniques to develop further in the near future, using a wider range of publicly accessible data.

Among the many possible uses for spatial analyses of globalized family building practices, I suggest policy development is a critical area in which spatial research may be able to expose areas of practice inequities or disproportionate representation. As suggested in a statement by geographers Bradshaw and Muller (2004), speaking to the potential value of using spatial analysis within policy decision-making, the value of using maps and other integrated techniques for maintaining realism within policy analysis. Bradshaw and Muller maintain that

spatial models are demonstrated as increasingly relevant to the policy process because they better represent the complex policy reality that leaders know, compared to models that do not take into consideration issues such as density, intensity, diversity, and interdependence. The ecology of policy issues does not lend itself to overt “scientific” policy analyses that systematically disregard how the complex social phenomena work out in real community and regional settings (2004, p. 318)

Although their statement was issued in reference to spatial analysis in land use policy, rather than social policy, I found the policy contexts to be similar in critical respects. I take their comment to suggest that sophisticated spatial models may be particularly useful for complex problem resolution in which the prioritization of issues is clouded by a mixture of rhetorical terms, political influence or traditional thought modes. There is a for need research on TNA to address the obvious concerns of equity and justice within the global child welfare system in addition to the protection of multiple state, family and individual interests that are required for its maintenance.

With improvements in recordkeeping for TNA practices under the auspices of multinational monitoring, I posit that the use of new and more sophisticated analytical techniques may also increase. The comprehensive spatial representations of the TNA practice; however, may result in a re-examination of the participants involved in these global reproductive practices, as suggested in John R. Week's (2004) comments on the pervasive quality of spatial analysis in demographic research on fertility. I believe that this substantive shift in the categorization of reproductive processes and populations may be culturally discomforting in many respects. Based on the dual imperative to generate factually accurate knowledge across wider practice scales and to maintain sensitivity to the core policy interests, I have responded with use of mixed methods in this project (Coutin and Yngvesson, 2008). Mixed methods are both essential for research on complex, international family building practices as well as a 'purposeful' approach to meeting the stated objectives and needs of this project (Newman et. al., 2003, p. 175).

Chapter 4

Analysing Growth in the UK and US Family Populations Produced by Intercountry Child Adoption

Introduction: On Not Knowing the TNA Receiving Family Population

Over the past half century, the practice of international child adoption has expanded significantly in several regards. It has grown from a reproductive practice sought out by a mere handful of pioneering families in the mid-20th century, who took in children orphaned during World War II and the Korean War, to the now thousands of families per year who are receiving foreign born children from around the world. In spite of the early practice start, some of most accelerated rates of growth and considerable changes in practice patterns have occurred only recently, between the mid-2000s and 2008 (O'Hallaran, 2009; Selman, 2006). Within this short period, the number of countries with children entering routinely for purposes of TNA has increased, the primary sending countries have shifted and the range of countries with families now able to access this family building practice has expanded beyond those residing in a small cluster of economically developed countries in Europe, North America and Australia. The countries with families that routinely receive children include not only the UK and the US but also many other economically developed nations throughout the entire European region and Asia (O'Hallaran, 2009). The most recent figures also indicate the possibility of more fundamental changes in the direction of child migration flow. The statistics are just beginning show that small group of prospective parents, at high socioeconomic status and residing in economically developing (primarily Asian) 'sending' countries have just begun

to receive foreign-born children in limited numbers, in a reversal of traditional patterns. Alternatively, prospective parents in sending countries may also have increased access to domestically available children through recently expanded social welfare programs, aimed at ending long term patterns of child emigration from TNA (Selman, 2009, p. 590-1).

Even with these clear indications of substantial changes, I found very little research on the corresponding evolution in the family populations of TNA receiving countries or analysis of worldwide growth in the size of the receiving family population. This chapter launches a multi-part study of the human geography of this reproductive practice with an examination of UK and US receiving family demographics and an analysis of the political geographies of the TNA practice, one of several internationalized family building processes. In this two-part analysis, I will address the absence of quantitative research on the evolving practice of TNA through a comparison of placement processes and receiving family populations of the UK and the US. I opted for a study of these countries because of their similar histories with this reproductive method as well as their evident differences in family building trends. A primary motive for this research was my curiosity about the reasons for the clear disparity in the size of the UK and US TNA receiving family populations, especially since both countries have received children for equivalent time-periods, on similar grounds of humanitarianism and now have comparable systems of governance in place.

In this comparative analysis, I use a mixed research methodology to develop a more accurate and up-to-date understanding of this multinational TNA practice. First, I analyse a variety of national statistics on TNA and other indices of trends in family reproduction within a quantitative survey of the global practice. Then, I use these findings to support a second, qualitative,

exploration of the demographic characteristics that are unique to families produced through this reproductive method.

Although aims of this chapter are straightforward, this analysis of the political geography of TNA is original in several respects. The majority of existing research on TNA, within various social science disciplines, has approached the study of this globalized reproductive practice primarily through an assessment of fluctuations in child immigration levels. A large proportion of the existing research on the adoptee population is comprised of work in areas of sociology (Katz, 2004; James, et al., 1998), anthropology (Strathern, 1992; Yngvesson et al., 2002), policy analysis (Howlett and Ramesh, 2003) and even children's geography (Aitken, 2001; Aitken et al., 2008; Holloway and Valentine, 2000). Even though these works span several disciplines and take varied approaches to research, most of these works neglect to evaluate the possible changes that TNA placements may have on the receiving country family populations. Even further, some family researchers have implied that the incidence of TNA within receiving countries is either scarce or prevalent, but fail to substantiate their speculations with an extensive presentation of practice statistics evidence or a detailed analysis of the political configuration of families built through this process.

For instance, even well respected institutes for adoption research, such as the Evan B. Donaldson Institute (EBDAI, 2006), have estimated the density of the receiving family population and implied certain patterns of receiving family distribution within receiving country populations without clearly stating the statistical evidence or analytical techniques used to support their implied claims. In a 2006 online statement, the Donaldson Institute made an uncommonly direct claim about the numeric incidence of adoptions within the US. The EBDAl maintained that 'up to 1 in 10 of every US citizens personally knows someone

involved in the adoption process (as an adopter, adoptee, birth mother, etc.)'. Although their conclusion implies a high level of prevalence, this claim has not been verified through detailed quantitative analyses comprised of either sub-regional census studies on the national distribution of receiving family residences, direct surveys with a large sampling of receiving families or a confidential polling of the major UK and US TNA placement agencies.

Moreover, the EBDAl claim suggests a correlation between the statistical growth in the population of children or child immigrants and the prevalence of a particular family type within receiving cultures that may be valid in some, but not all, instances. It is true that the US Census Bureau maintains records on child immigration the numbers of immigrants residing in each US federal state. Similarly, the UK Office of National Statistics annually reports the number of visas awarded for child entry into each of the areas of England, Wales, Scotland and Northern Ireland. In spite of these recordkeeping practices, I cannot support the claim that analysis of UK and US national child immigration levels are sufficient evidence for qualitative conclusions about receiving family distribution patterns or receiving family density within receiving populations. What is required now is a more thorough evaluation of the population impact of TNA in primary receiving countries and an accurate examination of receiving family demographics. For this reason, my research specifically includes a broader range of statistical evidence about reproductive practices with the aim of launching a more comprehensive and accurate study of the impact of TNA on receiving country family populations.

Overall, I strongly believe there is great value in examining the political geographies and demographics of the global population of receiving families. Multinational evaluations of TNA levels, as conducted in this chapter, are a critical step in generating awareness about the global geographies of modern

family building practices. For instance, less populous countries such as Norway and Sweden have consistently recorded far higher per capita rates for TNA over the past decade than either the US or the UK (Selman, 2002). These Scandinavian countries have per capita TNA rates that are more than 30% higher than the US and over 600% higher than the UK, although the US places the highest number of children per year in the world (Selman, 2002, p. 212). Given this data, I maintain that receiving families may actually be more a conspicuous population in Norway and Sweden (and other less populous countries with high rates of adoption) because the children actually constitute a higher percentage of the total child populations of these Scandinavian countries and the families constitute a larger proportion of the overall family population. What I suggest here is that quantitative comparisons of per capita TNA rates and overall family population sizes are an essential, but frequently overlooked, method for accurately appraising the impact of this practice on receiving cultures.

Although obstacles to some areas of family research remain, I found that comparative research techniques were critical to completing this quantitative assessment of global TNA family building trends. For instance, data incommensurability hindered some comparisons among receiving nations, but I felt that multinational surveys of TNA data for several receiving nations improved the accuracy of findings, in general, and offered new insights about regional, national or local differences in practice patterns. Comparative techniques also helped to reduce, although not completely erase, problems of poor data quality and national inconsistencies in recordkeeping on reproductive practices, families and other culturally sensitive topics. For example, receiving countries such as Italy have histories of family participation in TNA that are equivalent to the UK and the US. Unlike the UK and the US, Italy has not consistently maintained records on TNA placements completed before 2003 or on family building in general. The absence of high quality data for all the primary

receiving countries greatly hinders longitudinal comparisons in certain areas, yet I found comparisons a very productive means to accurately assess, what I regard as, short-term (annual) and even mid-term (up to five year increments) multinational practice growth (Shkolnikov et al., 2007; AICAN, 2008; USDS 2009). I hold that comparative research becomes one of the most useful avenues for evaluating the relative impact of numerous modern reproductive practices and national family populations in cases of data inconsistency. My goal for this chapter is to launch such comparative research and to gain insight on the growth of this international family population upon which I will explore aspects of family geographies, within population geography, that have been neglected within more localized practice studies.

Research Questions Aimed at Innovating the Study of TNA Receiving Family Demographics

This examination of TNA political geographies founds this project's interrogation of cultural assumptions about families created through this reproductive method. In particular, this study investigates the validity of cultural distinctions placed between TNA receiving families, families formed by 'traditional' methods of natural delivery and families formed by other, equally 'modern', technologically assisted methods (ARTs). To investigate and address the absence of research on critical aspects of international reproduction - which I regard an important and growing sub-section of reproductive methods - this chapter will respond to questions aimed making best use of publicly accessible data in order to examine the actual demographic characteristics of TNA receiving families.

This chapter is divided into main two-parts, in which I study both quantitative as well as qualitative aspects of the UK and US receiving family populations. In the first section, I quantitatively estimate the current national and global size of the receiving family population. This section will respond to the basic research question: *What is the current size of the TNA family population in the UK, the US and globally?* In this study, I compare annual snapshots of TNA child receiving levels for the UK and the US from 2000 to 2008 to analyse national child placement trends. I also selectively include data on the TNA levels of other countries that routinely receive children for family placement. For this examination, I compiled statistics on component topics of TNA entry visas, international reproductive practices and domestic family building levels, which I present in an analysis of charts and maps. I believe this initial geographic study is particularly useful because it presages possibilities for extending this research to evaluate TNA populations within broader categories of transnational families or families built through alternative forms of international contracting.

In the second half of this chapter, I study qualitative aspects of the population geographies of this family building method. Specifically, I will examine commonalities in the demographic characteristics of TNA receiving families as a global family category. In this assessment, I respond to the specific questions: *What specific impact does the TNA process have in creating unique political characteristics for receiving families?* and *Does the political composition of the average TNA receiving family differ substantially from families formed through alternative (domestic or internationalized) methods?* To explore both of these areas, I examine differences in the citizenship affiliation of individual TNA family members - most critically, the citizenship differences between parents and child adoptees - as typical and definitive feature of receiving families. Based on a review of the naturalization processes required for the majority of TNA adoptees, I challenge a recurring message within TNA policy rhetoric that implies absolute parity across

families created through all methods and an equity between reproductive practices of all types (Alston, 1994; Freundlich, 2000a, 2000b). For this study, I examine civic diversity as a materially significant demographic attribute. In the end, I develop the argument that civic diversity is a definitive quality of several populations that include multinational families (Estin, 2002; 2008), transnational families (Howell, 2003) and transnational parents (Freeman, 2003). To interrogate the current categorization across the family populations of the UK and the US, I ask *Does the universal standardization of the TNA process, through multinational policies such as the UNCRC and Hague Convention, erase the substantive differences in families in which the location of origin between parents and child adoptees are separate?* My response to this question leads into the ensuing chapter's study of family equity. To initiate this later investigation, I review changes to the customary meaning of critical concepts in child adoption – which include transracial placements, access to birth information and protection of children's interests to connections with birth families or locations of origin for years after placement - within the specific context of a TNA placement.

Throughout this chapter, I set forth the hypothesis that the diversity in receiving family civic affiliations is a definitive, but frequently downplayed, attribute of this global family class. Among the conclusions I have derived from this study, I particularly explore the materiality of receiving family civic diversity as a definitive aspect of the political geography of this family type. I suggest that international reproduction creates new types of transnational families that are unlike other transnational family populations (Bryceson and Vourela, 2002,), ethnic minority groups (Lionnet and Shi, 2008) or migrant workers (Smith and Bakker, 2008) that have received extensive consideration within existing literature. My interest in expanding the definition of transnational communities and families is inspired by the earlier work of Kennedy and Roudometof (2002) on emerging transnational communities, in which they explored methods for

including alternative, and sometimes ill-defined, population outliers within assessments of more routinely held categorical groups. In this project, I apply their approach to interrogate the current categorization of receiving families in an effort to permit study of their legal, cultural and economic geography in subsequent chapters.

Innovating Population Research on UK and US Receiving Families

This study is an original assessment of political geographies of families that differs from related studies in four key ways. Firstly, very few existing studies have analysed the demographic characteristics of family populations produced by a particular reproductive method. Although scholars such as Sarah Franklin (1997, 2000, 2001, 2003, 2006a, 2006b); Helena Ragoné (1996); Sarah Franklin, Celia Lurie and Jackie Stacey (2000) have conducted extensive qualitative research in related areas of technologically assisted reproductive practices, their work has not prominently figured the TNA practice or examined receiving family populations. Additionally, their work has not aimed to quantitatively compare the impact of 'modern' reproductive processes. I intend for the analyses of this chapter to contribute to their ongoing research on the global growth in parental contracting for technologically advanced or 'modern' reproductive alternatives.

Secondly, TNA receiving families have not been the primary subjects of most studies on family populations. Instead, most assessments of families that include families created by TNA are limited to case study analyses with individual families that are included within larger works focused on domestic adoption practices or global reproductive markets, as in the studies of Viviana

Zelizer (1981, 1985, 1994, 2000). The works on multinational patterns in TNA practices by demographer Peter Selman are an exception to this claim (2000, 2001, 2002, 2006). Selman is among the few demographers to engage in multinational research on TNA practice trends in the EU and the US, although his work does not specifically evaluate civic affiliations as a critical factor, which is a key topic of this work.

Thirdly, there have been extremely few quantitative analyses of the TNA practice overall. This research gap is surprising, in my opinion, especially since the UK and US have consistently maintained high quality records on families. To provide further details, I found that the USDS has published sending and receiving country information on TNA child immigration statistics and key policies for the twenty years. I attribute the high quality of US records to the fact that the US has historically received the largest number of overseas children for family placement over the course of the practice history. Before the US entered into the UNCRC accord in 1989, primarily only professional social workers and interested parents had access to substantial amounts of data on TNA or alternative reproductive practices. In the period just preceding April 2008, the US government compiled data for a larger pool of sending and receiving nations. Since I began research in 2006, I found that access to data increased through online publication of statistics and reports as the US prepared to enter fully into the terms of UNCRC and the Hague Convention. The range of publicly accessible information on TNA now includes longitudinal breakdowns of child immigrations from key US and European sending countries. Although the US government maintains data on the global TNA practice primarily for the use of US-based researchers, professionals and prospective parents, the practice information is centralized in a way that facilitates open access to data by international petitioners of all types.

Fourthly, the incommensurability of the UK and US datasets required my use of a research strategy aimed exposing analogous processes, wherever possible, to enable comparative analysis. In spite of efforts to increase the level of commensurability between UK and US data, the lingering differences in national practices prevented TNA process comparisons in some areas, although these differences were not as significant between the UK and the US as between the UK or the US and other primary receiving nations ³. The primary impediments to comparing UK and US data were the absence of detailed information specifically on the TNA practice or the decentralization of available data. In particular, the UK government centralized datasets to a lesser degree than the US, since the national policy stance does not promote parental contracting for or research on this family development method. I responded by reviewing a broader range of national statistics for both countries on the topics families, reproduction and immigration. My strategy for offsetting data incommensurability also included a more frequent review of TNA trend data, which I gathered in quarterly sweeps carried out between 2006 and 2008. Even further, I consulted a diverse range of publicly available datasets obtained from multiple UK and US government agencies, NGOs (Non-governmental Organizations) such as the British Association of Adoption and Fostering (BAAF). Additionally, I reviewed reports produced by private adoption research institutes like the Inter-Country Adoption Centre (ICAUk) and the Evan B. Donaldson Adoption Research Institute (EBDAI) and assessed academic research containing data on reproductive health care trends and populations.

³ I cite the critical differences between French and UK adoption statistics as an instance where data incommensurability hinders facile comparison of TNA levels across EU primary receiving member nations. To be more specific, France designates sub-categories of adoptions based on factors such as permanence of placement (termed either 'simple' or 'full' adoptions) and, more critically, maintains more explicit exceptions to adoptee child naturalization and citizenship acquisition based on considerations of a child's continued ethnic, religious or other ties to cultural heritage than either the UK or the US.

The Imperative for Using a Geographic Approach to Innovate Research on Global Family Populations

This chapter aims to make a unique contribution to the growing body of literature on reproductive technologies, transnational families, modern citizenship and civic pluralism. Yet, TNA receiving families differ from other transnational families who are most frequently characterized by their contribution to global labour markets (Bryceson and Vourela, 2002; McDowell, 2000b; Santos, 1995, 1998, 2002; Freeman, 2003) rather than their compliance with universal standards of human reproduction. A geographic approach to analysis is vital to understanding the unique political economies of transnational families and distinguishing among similarly configured family groups. In contrast to research on TNA in other disciplines, I critically interrogate quality of civic diversity as a unique and geographically material characteristic of receiving families that is an aspect of families I believe is currently underrated within legal and cultural reviews of the practice. I intend this inquiry to feed new theoretical explorations of reproductive practice equity (as variously included in Strathern, 1992b; Ziebe and Devroey, 2008; Hollingsworth, 2003; Santos, 2007), if not reproductive justice (McDowell, 1998, 2000b; Harvey, 1996; Massey, 1996). This is especially valuable since the categorical study of the geographies of international family building is still in its infancy, at best.

As evidence of the immediate need for research on the multinational category of TNA receiving families, I collectively note a set of changes issued by various sending countries that suggest the political geographies of families may continue to evolve further. The most notable recent shifts in the practice are aggressive adoptee repatriation schemes by primary US and UK sending nations.

Most notably, South Korea has instituted a 'seggyehwa' (globalization) repatriation scheme that established post-placement adoptees as a class of 'overseas Koreans' with lifetime rights to return (Kim, 2007). In a related manner, India, a primary sending country for UK parents, has shifted its policies to gain more control over the number of children released for adoption by foreign families. Although Indian officials sought to encourage the adoption of orphaned girls by British families (Nelson, 2007), the 2006 *Guidelines for Adoption from India* issued by the Indian Central Adoption Resource Authority (ICARA) countered this plea by shifting onto the receiving parents several placement responsibilities and cost burdens for TNA. This measure established that the Enlisted Foreign Agencies for Adoption (EFAA), rather than the Recognized Indian Placement Agency (RIPA), receives full responsibility for all costs associated with the repatriation of an adoptee when a child's welfare is threatened. The criteria used by the ICARA to evaluate potential child welfare infringements are not well defined within the 2006 measure. Although likely the ICARA definitions of a welfare violation will align with the core tenets of the multinational accords, setting terms for repatriation cost reimbursement are not within the current jurisdiction of the global TNA law.

In an alternative manner, other countries such as Guatemala have become increasingly reliant on genetic testing to guarantee child availability but such records of biological kinship may also be used as evidence in future child repatriation claims in the event this sending country policy its policy changes (UPI, 2008; USDS, 2007; 2008). Other primary child sending country authorities, such as the China Centre for Adoption Affairs (CCAA) have recently instituted requirements on receiving families that are far more stringent than those set by either the Hague Convention or by receiving countries (CCAA, 2008). The recent measures of India, Korea and Guatemala all indicate shifts in sending country policies that do not literally restrict release of children but rather can be

interpreted as weakening the civic ties between adopted children and the countries into which they are placed.

While these trends may appear disparate or confined to the processes of individual TNA receiving families, I believe they collectively suggest the extent to which globalized family building results in substantive differences in the characteristics of receiving family populations. At the conclusion of this chapter, I evaluate civic instability as an underexplored aspect of this family population. This particular characteristic critically differentiates TNA receiving families from traditional family civic norms in ways that become evident only through an attentive multi-scaled and fact-based analysis of family population geographies.

Surveying the International Family Building Landscape and Comparing UK and US TNA Levels

As a global practice, TNA family building results in the immigration of approximately 45,000 children per year, 95% of those children came from 20 primary sending countries (EBDAI, 2001). The UK or the US are considered as primary child 'receiving' nations, in opposition to child 'sending' nations, because the number of children immigrating for permanent placement exceeds the number of children that emigrate for placement in foreign countries. The 'sending' countries are nations for which the numbers of children that routinely emigrate for permanent placement with foreign families exceeds the number of children immigrating for that purpose. In the majority of TNA adoptions, the orphan children enter sending countries as citizens of their country of origin, pursuant to the protocols set forth by the Hague Convention, the release requirements of sending countries and the award of an entry visa by the

receiving country. The adoptees become naturalized citizens of the receiving country only after the receiving parents receive full custody (USDS, 2009; UN, 2007).

The current TNA child placement patterns have largely developed over the last 25 years, when the incidence of the practice increased most rapidly. There is evidence suggesting that changes in the practice motives may have contributed to this increase. The motives for TNA, I argue, are far more diverse than historically presumed. Most notably, the TNA practice satisfies the wider family building and social policy interests of receiving and sending countries in ways that may perpetuate the practice. More specifically, the sovereignty interests of receiving nations with chronically low birth rates and sending countries with inadequate social welfare and family assistance programs as well as the formation of regional multinational organizations aimed at collectively governing the cross-border movement of populations (such as the ESCHRE, the Max Planck Society). The interests of nations, families and international policy makers are diverse but equally directed at maintaining TNA as a family building option. The relative weight these varied interests have in directing current practice trends has not received significant analytical attention.

Part of this analysis involves a shift in the conceptualization of practice to reflect more accurately the multiple intents of the current practice, which have changed considerably from the time of TNA inception. I believe that an expanded understanding of parties that benefit from TNA will support investigations into political geography. Such evaluations will correspondingly, enable a more accurate practice analysis, equitable execution of the law and determination of legal standard efficacy towards their stated aims. The first step towards such as shift requires an accurate assessment of the current practice facts within the global context of political and personal patterns of engagement

around related issues of child migration, reproduction and national policy positions.

For this investigation of population changes caused by TNA contracting, I found the most reliable source of statistical information to come from one of two main areas. The first area included the analyses of national government agencies responsible for immigration or family affairs (such as the USDS, UN, ONS, DHHS or DfES). The US and UK government agency publications are some of the richest sources of high quality statistics on families. These offer the most accurate estimates for national processes such as the number of citizenship requests, entry clearances for unaccompanied minors, citizenship petitions for children, custody awards and family growth levels measured by state, council or region.

The second category of research on TNA receiving families originates from the work of non-profit research institutes responsible for analysing changes in many types of child adoption. These unbiased institutions include the US based Evan B. Donaldson Adoption Research Institute (founded in 1996) and the Center for Adoption Support and Education (C.A.S.E.) (founded in 1998). These institutes have been among the first to attempt to measure the broader impact of child adoptions on receiving country populations and on global objectives for child welfare protection. Their increasingly extensive body of research primarily assesses government data but also maintains archives of historical documents, such as University of Oregon's Adoption History Project (AHP). Many studies conducted by child placement specialists in areas of social work, medical or labour studies present data in publicly accessible webpage 'fact sheets', downloadable policy reviews or white-paper legislative analyses. These works primarily intend to increase prospective parent access to more accurate, up-to-date and detailed knowledge of about current TNA processes. The research of

these and other independent organizations is a necessary and valuable foundation for to the more detailed demographic analyses of receiving families as a national and international population group consideration in this project.

A Survey of Global TNA Trends

Both the UK and the US are among a small group of primary ‘receiving’ countries that now annually accept large numbers of unaccompanied children for permanent family placement. The US and the UK currently receive very different numbers of children annually, based on the size of their national populations and the family policies that have incentivized or restricted parental access to required assistance. The US, but not the UK, ranks among the eight top countries in the world that routinely receive children. Throughout the course of the almost six decade history of the TNA practice, the US has received the highest total number of immigrant. Although not among the top ten receiving countries worldwide, I have added the UK to Table 1 below to enable multinational comparison of overall per capita rates of TNA child immigrations.

Table 1 provides a snapshot of the TNA levels for the top child receiving countries. It details the current TNA levels for the top primary receiving country across key measures that include: the total number of child immigrations, the percentages of TNA within the overall population and the relative value of TNA to the population replacements in each sending country. It does not reflect the impact that increased multinational adherence to the terms of Hague law may have on global practice patterns over the latter half of the 2000s.

Table 1: Global InterCountry Adoption Levels Ranked by Receiving Country

Rank	Country	Period	Population	No. of Adoptions	Adoption Rate ^a	No. of Sending
1	Norway	2007	4.6 mill.	426	9.17	
2	Spain	2007	40.5 mill.	3,648	9.01	41
3	Sweden	2007	9 mill.	800	8.84	55
4	Denmark	2007	5.5 mill.	429	7.82	19
5	Ireland	2006	4.2 mill.	313	7.53	14
6	Italy	2008	58.1 mill.	3978	6.84	61
7	USA	2007	303.8 mill.	18,748	6.17	20
8	Netherlands	2006	16.6 mill.	977	5.87	15
9	Switzerland	2007	7.6 mill.	404	5.33	11
10	France	2008	64.1 mill.	3,271	5.11	11
17	UK	2007	60.9 mill.	356	.58	37

^a Number of Children adopted per 1,000 persons

Source: AICAN, CIA World Factbook. 2009.

The per capita ranking in Table 1 indicates the national density of TNA placements within the overall populations of receiving countries. This table verifies, to a certain extent, the above EBDAI assertion on the dispersion of adoptive families within the US. Relative to other receiving nations, the data in this table indicates that TNA prevalence is far lower in the US and UK than in several other economically developed receiving countries. The differences in TNA levels across receiving countries may arise from the presence of domestic family building policies that either enable or prioritize TNA as a reproductive method over other family development options. In such cases, TNA may be a primary means for certain countries to address chronic population replacement

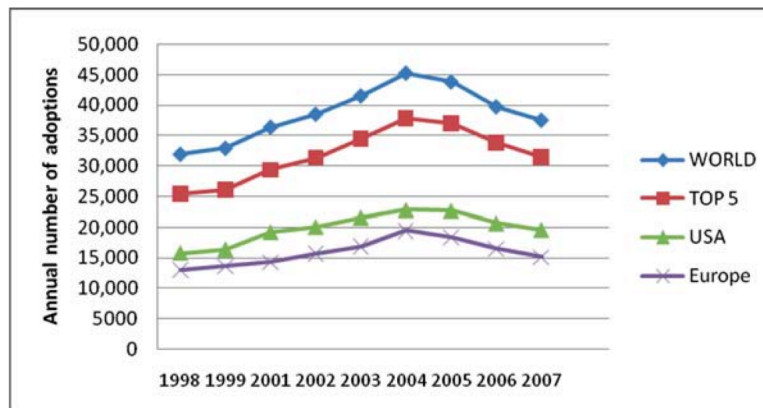
needs. For example, in Norway and Sweden, TNA rates have remained consistently high. Following a similar trajectory, Spain has more recently escalated intercountry adoptions over the past five years, causing a rapid increase in the per capita levels of TNA that is unprecedented in the history of that nation (AICAN, 2008, 2009). In comparison with Spain and other countries, both the UK and the US have much lower per capita TNA rates. Additionally, the UK and US reported less abrupt and more graduated changes in child receiving rates, even though the annual receiving rates have remained higher overall.

Most critically, the data contained in Table 1 suggests a multinational downward trend in average number of sending countries for all primary receiving countries. The countries sending the most children (>300 children per year) for foreign adoptions to families in the US and top receiving countries included China, Russia, South Korea, Ethiopia, India, Ukraine, Columbia, Guatemala, Vietnam and Kazakhstan. In the UK and the US, the number of countries sending children for placement since 2002 has also decreased. Over the past five years, the number of countries sending children to the US has decreased from an average of 44 countries per year to just 20 sending countries per year (AICAN). Similarly, the number of countries sending children to the UK has also decreased from about 70 to 37 sending nations. I will examine in the next section's review of the practice regulations, the possibility that the reduction in the average number of sending countries may be a product of process changes brought about by the entry of the US and the UK into the Hague, in 2008 and 2003 respectively. For purposes of this analysis, the UK and US entry into the Hague may have increased complexities on familial scale and restricted parents from adopting a outside of Hague-compliant sending nations.

If this trend continues, I posit, the UK and the US may develop a dependency upon certain sending countries as they receive larger numbers of children from a more limited group sending countries. The reduction in the average number of primary sending countries to each receiving could indicate a return to pre-Hague placement patterns, when the majority of children received by UK and US received families were sent from a limited group of 'designated' nations (pursuant to the UK *Adoption (Designation of Overseas Adoptions) Order of 1973*) or from nations with which they had established other bilateral political relationships, as with the *U.S. Vietnam Bilateral Agreement on Inter-country Adoption* of 2005. I portend that reductions in the total number of countries sending children to the UK and the US may merit future study. Changes in receiving country policies to maintain current sending country levels may indicate a desire to avoid overreliance on particular sending countries.

Table 2, below, provides a comparison of child receiving trends by region between 1998 and 2007. Table 2 figures indicate a drop in the annual number children placed. This change was from a peak of almost 23,000 children in FY2003 down to the current FY2008 estimates of 17,438 children. In spite of this reduction in child immigrations, the US still receives the highest annual number of children of all primary receiving countries.

Table 2: Trends in TNA to 23 Receiving Countries; top five receiving countries; USA and Europe, 1998-2007



Source: Selman (2009: 577).

The cumulative reasons for the reduction in numbers of children from sending countries are diverse. The global reduction in child receiving may result from factors such as the recent suspension of primary child sending countries such as Guatemala, Vietnam and Cambodia, which the Hague authorities have routinely cited for suspected process violations and evidence of continued placement irregularities. Another reason for the recent global decline in TNA levels may also be high practice costs for parents and increasing regulatory hurdles (Shellenbarger, 2009; Koch, 2009). I explore each of these reasons more fully in this chapter's ensuing discussion of family demographics as well as within the assessments of TNA laws and cost typologies within succeeding chapters.

In a different rendering of the data in Table 2, the *Hague Convention Member Nation Status* map (shown below) points out the main countries that send children for placement with UK and US families. The size of stars represents the approximate numbers of children sent annually to the US and UK. Notably, the global number of sending countries is lessening and while the primary sending nations remain clustered in select geographical areas.

Hague Convention Member Nation Status with starred primary sending countries to the UK and the US



Source: USDS, 2008.

Tables 3 and 4, below, trace the longitudinal TNA trends for the UK and the US. The data contained in both tables indicates the percentage of growth in TNA across various receiving countries. Read together, the most notable aspect of this survey is the overall negative rate of growth in US TNA levels over the 2001 to 2007 period. The most significant decreases occurred in several countries that have traditionally received large numbers of children. These countries included Norway, Sweden and the US. Looking at the US, the TNA levels increased from 2001-2004 but the US experienced an equally steep accelerated decline in the subsequent two-years, from 2005 to 2007). In contrast, the UK maintained a relatively consistent level for TNA placements. The most significant decreases occurred in several countries that have traditionally received large numbers of children. These countries included Norway, Sweden and the US. The UK data, not shown here due to the relatively small number of

annual child placements, reported a filing of 256 visa applications in 2008. Between 2002 and 2007, UK families adopted only around 335 children per year but this level diminished further between 2007 and 2008. The next set of TNA figures, due to be published in 2009, are estimated to indicate a drop in UK TNA levels by as much as one third of the 2001 to 2007 range. These figures do not take into account 2008 estimates that may reveal an even further deceleration in TNA due, at least in part, to the effects of the global economic recession on reproductive decision making or family assistance levels.

The data in Table 4 appears to disprove the concerns of humanitarian proponents who fear that reductions in US receiving rates will jeopardize children's welfare because parents will no longer be able to negotiate onerous practice regulations (Bartholet 1999b; Selman, 2006, 2009; Alston, 2007). Instead, these TNA levels suggest that the US downturn in TNA levels may be offset by increases in the TNA child placement levels for several less populated receiving countries, many of which do not have long histories of families who elect for this family building method. This emergent group notably includes Ireland, Italy and Spain, all of which have evidenced substantial growth in TNA levels from the mid 2000s onwards.

Table 3: Percentage Change in Number of Adoptions 2001-4 for selected receiving states (peak year in bold)

	Adoptions 2001	Adoptions 2002	Adoptions 2003	Adoptions 2004	Change 2001-4 %
Ireland	179	357	358	398	+122.4
Italy	1797	2225	2772	3402	+89.3
Spain	3428	3625	3951	5541	+61.6
Finland	218	246	238	289	+32.6
France	3094	3551	3995	4079	+31.8
Australia	289	294	278	370	+28.0
USA	19,237	20,099	21,616	22,884	+19.0
Netherlands	1122	1130	1154	1307	+16.5
Sweden	1044	1107	1046	1109	+6.2
Canada	1874	1926	2180	1955	+4.3
Norway	713	747	714	706	-5.5
Israel	269	165	256	226	-16.0
Denmark	631	609	523	528	-16.3
Total^a	36,379	38,524	41,530	45,288	+24.5

Source: Selman (2009: 578)

This data evidences a trend towards an increased number of receiving countries with lower national annual levels as well as a smaller number of primary sending countries is fundamental shift in the global TNA practice. Both trends may result in a redistribution of national populations of children across a greater number of less populated countries. Although it is beyond the primary scope of this research project to assess global patterns in TNA, this data suggests the possibility that receiving family populations may be an increasingly pervasive population, particularly within an increasing number of small receiving countries. Even further, smaller receiving countries may then also begin to evidence a need for domestic social policies that can address the rapid growth in their transnational populations. The need for smaller countries to respond to the specific needs of transnational families may be greater than those of larger countries such as the US, Canada and Australia, in which the TNA populations are more disperse.

Table 4: Changes in number of adoptions, 2004-7, ranked by percentage change 2004/5-7 (peak year in bold)

	2004	2005	2006	2007	% change 2004/5-7
Finland	289	308	218	176	-42.9
Netherlands	1307	1185	816	778	-40.5
Norway	706	582	448	426	-39.7
Spain	5541	5423	4472	3648	-34.2
Sweden	1109	1083	879	800	-27.9
Denmark	528	585	450	426	-26.8
Belgium	470	471	383	358	-24.0
France	4079	4136	3977	3162	-23.5
USA ^a	22,884	22,728	20,679	19,613 ^a	-14.3
Australia	370	434	421	405	-7.3
Israel	226	191	176	218	-3.5
Canada	1955	1871	1525	1713	-1.5
Italy ^b	3402	2840	3188	3420^b	+0.5
Malta	46	39	60	64	+39
Total^c	45,288	43,857	39,742	37,526	-17.1

Source: Selman (2009: 579).

If these trends continue, the lateral re-distribution of children across a larger group of receiving countries constitutes a significant change from historic TNA placement patterns. In response to this trend, future policy assessments may be required at the international level in order to review the 'subsidiary' clause Hague Convention and evaluate the extent to which countries are using TNA to manage their population replacement needs and chronically high levels of infertility rather than further the humanitarian aims of the practice (Hague, 2008). In the end, my review indicates the need for new evaluation of these practice trends within broader analyses of international reproductive practice governance.

Comparing the Overall TNA Trends of the UK and the US

The total number of foreign children placed with UK families is significantly lower than the number placed with US families, as indicated in

Tables 6 and 7, below. Although the annual numbers differ considerably, many similarities exist in the TNA overall trends in the TNA practices within the UK and the US. For instance, between 2002 and 2007, the UK and US drew from a similar set of primary sending countries. A notable exception was that the UK consistently received more children from India, a nation that still maintains commonwealth status with the UK. Although the US has consistently adopted children from India, the levels have been lower (411 children in FY2006, 308 children in FY2007 and 286 in FY2008). India currently ranks as the seventh highest sending country to the US (USDS, 2009).

Table 6: Top UK Sending Countries 2002-2007

Measured in Total Number of Entry Visas for Children aged 0-18

Country	2002	2003	2004	2005	2006	2007	Total
China	127	187	190	165	108	111	888
India	37	31	32	26	24	24	174
Guatemala	46	30	21	16	29	28	170
Russian Federation	32	29	41	40	33	18	193
Cambodia	32	29	41	40	33	18	193
US	23	14	18	13	17	19	104
Thailand	22	16	13	11	8	21	91
Other	40	44	42	38	30	37	231
Total	356	369	369	333	301	285	2007

Source: DfES/DSCF, AICAN, www.dfes.gov.uk/intercountryadoption/general.shtml.

There are two likely reasons for the increase in the numbers of child adoptions from India to the UK. The first is the historic and current political connection between the UK and India, now maintained with India as a commonwealth

country. Additionally, many adoptions of Indian children by UK families are comprised of kinship adoptions, a form of adoption that I am not considering extensively within this study of intercountry adoption. A second reason that

Table 7: Top US Sending Countries 2002-2007

Measured in Total Immigrant Visas (Type IR3 and IR4) Issued to Entering Orphans

Country	2002	2003	2004	2005	2006	2007	Total
China	5,053	6,859	7,044	7,906	6,943	5,453	39,258
Guatemala	2,219	2,328	3,264	3,783	4,135	4,728	20,457
Russian Federation	4,934	5,209	5,865	4,639	3,706	2,310	26,663
South Korea	1,770	1,790	1,716	1,630	1,376	939	9,221
Ethiopia			289	441	732	1,255	2,717
Vietnam	766	382			163	828	2,139
US Total ^a	19,613	20,099	21,616	22,884	22,728	20,679	109,619

Source: USCS, AICAN. //travel.state.gov/family/adoption/stats/stats_451.html

^a US Total includes combines the numbers of children sent from other countries not listed here.

placements of Indian children with UK parents is so sizeable is that several primary South American and South East Asian nations (e.g. Guatemala, Cambodia and Thailand) have been cited by the Hague for process irregularities and potential violations of child welfare. Statistically, South American and South Asian nations are relatively small in comparison to countries like China, Russia and South Korea, which continue to send the highest number of children for foreign placement.

Some of the current patterns of child immigrations to the UK and the US are a continuation of pre-Hague child placement patterns. Before the enactment of the Hague provisions, sending nations had a great influence on parental access to children who are legally available for adoption and intercountry family placement. This is for reasons of particular bi-lateral relations between sending and receiving countries as well as the general interests for increased child welfare protection. An aim of the Hague Convention protocols was to eradicate the influence of any exclusive bi-lateral TNA relationships between sending and receiving countries on family building. The Hague protocols established new, humanitarian-based criteria for national participation in the practice in an effort to generate equity in access to this practice across all sending areas.

In contrast to the UK's relatively moderate expansion of their TNA practice to new sending countries, the US has recently increased its receipt of children from Ethiopia by 46%, from 2007 to 2008. This trend is significant because the US has not adopted large numbers of children from the African continent from the UNCRC period to the present. In an analogous manner to the UK-India child immigration patterns that can largely be attributed to India's Commonwealth status with the UK, the US historically received virtually all the children sent from Vietnam and Guatemala for other, unspecified reasons that might include proximity, cultural familiarity or relaxed regulations (UNICEF, 1998). One possible reason for the increased availability of Ethiopian children for US and UK parents includes the decrease in actual numbers of children received by countries such as Norway, Sweden and Finland (as shown in Tables 3 and 4), the countries to which large numbers of Ethiopian children were historically sent (AICAN, 2009).

Comparing Trends across Receiving Countries and between Categories of Reproductive Methods

International child adoption has become an increasingly popular family building option for parents residing in many of the primary receiving countries. Challenged by pandemics of low replacement birth rates or chronically high levels of medical infertility within populations of childbearing age, countries such as UK, the US and other nations have maintained or even increased parental access to TNA for population replacement needs (Selman, 2000, 2009). Studies on the family building decision making by Potts and Selman (1979), Becker (1991, 1992, 1988a, 1988b), et al., to be discussed further in the review of TNA economics, are based on the assumption that local, family building decisions are primarily motivated by conditions of infertility (whether medically diagnosed or not) rather than humanitarian beliefs. The analysis of TNA, as a population trend, uniquely mandates consideration of national trends in infertility levels as well as the prevalence of humanitarian beliefs within the population. I suggest that this complexity makes receiving families difficult to categorize, since their reasons for electing TNA may be more varied and difficult to determine than for alternative reproductive methods.

Due to the complexity of TNA decision-making and the absence of information on this group, an accurate analysis of TNA receiving families requires comparison with other reproductive alternatives that are similarly accessible to UK and US prospective parents. For instance, according to the US Centers for Disease Control (CDC), infertility is defined by policy as the inability of an individual to conceive after one year of unprotected intercourse. This medical condition affects about 7.3 million women and their partners in the U.S., comprising about 12% of the reproductive-age population (CDC, 2008). In contrast, medical infertility is estimated to affect around one in six or one in

seven couples in the UK. The number of infertile individuals in the UK amounts to approximately 3.5 million people (HFEA, 2009) or just under 6% of the total UK population. Although UK fertility levels are statistically higher than the US, I believe it is no longer valid to presume that adoption is the only method from which parents have to select. Similarly, I do not presume that TNA is the first method that prospective parents would consider when deciding among available options (NAIC, 2007). Yet, I do believe that TNA is one of several sought after globalized family development alternatives and that TNA is comparable in several significant respects to alternative methods.

Drawing a comparison between the relative size of the US international and domestic adoptions, must also be analysed relative to the total size of the child population in the US and the UK. At the last polling conducted in 2000, the US Census Bureau estimated that a total number of 25.1 million children (0 to 5 years of age) reside in the US (USDS, 2008; DHHS, 2008). More recent figures indicate that US adoptions result in a total of 127,000 child placements per year, a figure that includes the forms of public, private agency, tribal, kinship and TNA adoptions. Between 1992 and 2001, US intercountry adoptions increased from 5% to 15% of all adoptions in the United States, largely based on the presumption or actual experience of prospective parents that domestic adoptions were more time intensive, there are fewer available children and the policies are more restrictive among other reasons. TNA constitutes more than 15% of adoptions in the US (Flango and Flango, 1995; USDS, 2009; EBDAL, 2007).

In 2003, in US 119,000 children were eligible for adoption from child welfare (ACF, 2006) Adoptions through publicly funded child welfare agencies accounted for two-fifths of all adoptions. More than 50,000 public agency adoptions in 2000-1 accounted for about 40% of adoptions, up from 18% in 1992 (36 reporting states) (DHHS, 2000; Flango & Flango, 1995). Another two-fifths of

adoptions are primarily private agency, kinship, or tribal adoptions. With the available data, it is not possible to separate figures within this group, although the percentages of all adoptions in that group as a whole have decreased. In 1992, for example, stepparent adoptions (a form of kinship adoption) alone accounted for two-fifths (42 percent) of all adoptions (DHHS, 2008).

In comparison, the rate of TNA adoptions to domestic adoptions is even lower in the UK. In 2007, there were 4,637 total adoption orders in England and Wales (BAAF). In 2008, this number increased 4.4% to 4,939 orders. The proportion of children adopted who were aged 1 to 4 has been steadily increasing over the past decade. Fifty-seven per cent of all children adopted in 2008 were aged 1 to 4 compared with 55% in 2007 and 34% in 1998 (ONS). These orders apply to adoptions by relatives and step-parents as well as adoptions from public care. Regarding the expected wait time for a domestic adoption, the British Association of Adoption and Fostering reported that 75.8% children were placed for adoption within a 12-month period. TNA is also only a fraction of all child adoption, comprising only 1.2% of all adoptions in the UK (DHHS, 2008; DCSF, 2009; BAAF, 2008).

Evaluating TNA in comparison with other assisted reproductive options suggests the extent to which factors, such as practice costs and regulatory hurdles, may be creating global practice patterns and impacting the characteristics of TNA families. A comparison of trends across several reproductive methods indicates that increased parental contracting for processes in the general category of assisted reproductive technologies is now almost equal to the number of children placed through TNA. Based on a precursory comparison of reproductive contracting trends across methods, I found that approximately 12,589 babies in the UK in 2007 (or approximately 1.5% of all live births) were born following fertility treatment (HFEA). In the US in 2006,

approximately 54,656 infants were born after fertility treatment (or approximately 1.28% of all live births) (CDC, CDC NVSR Volume 56, Number 7. 18 pp. (PHS) 2008-1120). I take from this evidence that, although the US TNA numbers remain high, the continual increases the access of parents to other technologically assisted methods, may result in a continued decrease in TNA levels. While the synergy in these trends may appear more evident in the US because TNA contracting is less regulated than in the UK, I suggest that national policies aimed at increasing (or, conversely, decreasing) parental access to a particular reproductive method will cause a corresponding change in the number of parents actually contracting for that method.

Most of the research on child adoptions completed before 2003 held a primary aim to correlate cultural acceptance of adoption in receiving countries to increases in the actual numbers of adoptions. While most of these studies assessed the cultural acceptance of adoption generally, most works focused on transracial, domestic child adoptions, including international adoptions as ancillary to their core topic. The most notable research on transracial placements is Simon and Roorda's anthropological evaluation of cultural responses and familial experiences with interracial adoption (2000). This body of work also includes the analyses of policy scholar Leslie Doty Hollingsworth on public attitudes about transracial families (2003) and adoptee cultural identity interest protections (2008) as well as Frazer and Selwyn's (2005) call for demographic research on child placements with ethnic minority or mixed-race parents. While all of these studies included quantitative evidence to support analysis of non-traditional adoption practices, the majority of these works did not include specific reviews of differences in the political characteristics of TNA receiving families. I view the current studies to be critical initial steps to more sophisticated and focused research on TNA receiving families. To detail that notion further, I argue in the last section of this chapter that demographic

research specifically focused on changes in the TNA family populations is now required to accurately determine potentially transformative impact of this practice on receiving country family populations.

Incomplete International Practices and the Residual Civic Variety within Receiving Families

Among the characteristics of TNA receiving families frequently regarded as distinctive, one of the most apparent is the low level of civic similarity among family members. A unique aspect of the TNA process is that child naturalization is required to complete this reproductive method. In this section, I launch a qualitative examination of civic diversity to explore the material difference of this characteristic in evaluations of family equity under the law. This examination precedes a more in-depth legal review of the efficacy of TNA governance, based on the universal extension of children's rights through national and international policy in subsequent chapters. To found these later examinations, I look here at ways that child naturalization permanently alters the civic configuration of TNA receiving families.

Civic differences among family members are not a part of traditional family norms, where the citizenship affiliations of family members to the receiving country are similar or the same. Moreover, civic diversity is a characteristic that is common to all receiving families worldwide, because all families are subject to universalized multinational processes standards set forth under the terms of the Hague and the UNCRC accords (Eeuykelaar, 2004). Based on this qualitative difference, I suggest that the global standards create a type of civic parity in the global class of TNA receiving families, but also differentiate

receiving families from families formed by alternative methods. In the end, I make the claim that TNA receiving families are a type of transnational family, although not commonly thought of in that manner by most theorists conducting research in that area. Even further, I maintain that receiving families are a global population, irrespective of the national differences in policy positions on the practice or the inequity in the civic composition of families formed by TNA and those formed by other methods. Drawing these notions together, I develop the original claim that future progressive reproductive practice regulations in the UK and US must increasingly consider the civic diversity of family populations as a component of national sovereignty.

UK and US Family Placement Processes as Citizenship Making for TNA Adoptees

One of the most fundamental aspects of the TNA adoption process is not just the process of child immigration but also the naturalization of the child as a citizen of the country in which the receiving family resides. Child naturalization is a unique process within this particular international reproductive method. It is not a part of other reproductive practices, even though they may involve the cross-border movement of gametes or biological materials rather than children (Chestney, 2001). In this section, I detail the current process requirements for TNA adoptee naturalization into the receiving country to initially examine the civic diversity of receiving families.

The naturalization of a TNA adoptee is a process that is distinct from custody proceedings. Naturalization is a multi-step required process that UK

and US parents are responsible for completing. Child naturalization⁴, in distinction from the naturalization of adults, involves multiple steps and required parental expenditures. In the UK, the UK Home Office is responsible for regulating and monitoring all immigrations into the UK. Unlike the US, the UK has historically maintained different requirements for entry based on the political relationship of the UK to the immigrant's country of origin. This is absent the rights of the child to gain citizenship independently, after meeting British citizenship law requirements, which enables the child to become a British citizen without separate application with the Home Office. The UK differentiates child sending countries into three groups. The three groups are: Hague Member nations (subdivided into ratified or acceded status relative to the terms of the Hague Convention), 'Designated' Countries (which include 42 Commonwealth Status Nations and 32 nations within the European Economic Area) and 'Other foreign countries', or countries with whom the UK does not routinely receive immigrants. Only two nations among these groups - namely Cambodia and Guatemala - are suspended from sending children for placement with UK families for an indefinite period (UKBA, 2008).

The immigration of all children UK for purposes of a TNA family placement is governed by the *Adoption and Children Act 2002*, along with the *Adoption Agencies Regulations 2005* and the *Adoptions with a Foreign Element Regulations 2005*. These three domestic UK adoption policies stipulate the sequence that parents must follow before or during the process of TNA. Additionally, adoptive parents must apply for naturalization of their foreign born child under the terms of the *British Nationality Act of 1981* §3(1). The *Nationality Act of 1981* divides children granted entry visas into categories under the terms of the *Adoption (Designation of Overseas Adoptions) Order 1973*. The

⁴ Defined in the UK and the US as a minor under the age of 18, although the UK places a additional requirement that children over the age of 10 'be of good character' (UKBA, 2009).

Order mandates that a foreign adoption order will only be recognised in the United Kingdom if it was made in a 'designated country', which includes countries listed in the 1973 provision. The current list of these countries has changed and is now published online by the UK DfCS. For children originating in countries not listed on these documents must apply for entry visas and are entitled to funded state care under the *Unaccompanied Asylum Seeking Children (UASC) grant 2011/12 and the Leaving care (Post 18) grant 2011/12*.

The general process for the immigration and naturalization of children adopted by UK parents, as stipulated by the UK Home Office and the DfCSF, is comprised of three main segments. First, the parent must gain clearance to visit the sending nation for the purpose of adopting a child or obtaining necessary release papers. In order to adopt a child, parents must have attained a status of 'permanent resident' or, in some instances, an EEA national with 'Treaty rights' after a consecutive five-year residence in the UK ('settled' status). Next, the prospective adopters must obtain an adoption order from the chosen sending country and apply for entry clearance (i.e. immigration clearance for the child) to bring the child into the UK. Alternatively, the prospective adopters to obtain entry clearance, bring the child into the UK and make an application for an adoption order in the UK at the British Embassy or the parents must apply for an adoption order in both the UK as well as in the sending country. Prospective adopters completing their adoption in the UK have to notify their local authority within 14 days of the child's entry into the UK. Lastly, the adopted child (in the UK or in the sending nation) must then reside in the UK with the parents for one calendar year to 18 months. The UK law stipulates that the residence period must be completed before child adoption can be finalized and parents can apply for child naturalization.

The processes of child immigration and naturalization are similar for US parents, because both the UK and the US are adherent to the Hague Convention terms that set the requirements for nations around child availability and parental fitness, 'orphan' status, etc. (USDS; AtoZ, 2008). Prospective US parents who have legally adopted children in their country of origin must apply for an IR-3 or IH-3 visa through the U.S. consulate or Embassy abroad. US parents who have been granted only a temporary 'guardianship' by the sending country to enable the child to leave the sending country must apply for an IR-4 or IH-4 visa requiring full adoption of the child to be completed in the US. The U.S. consulate or Embassy must determine the fitness of the child and verify the reason for the child's travel (usually country of origin) as a critical step in preventing child welfare abuses of abduction or trafficking. Critically, the US immigration authorities must ensure proper documentation for the child, which includes not only verification of 'orphan' status by parents but also that the child is in possession of a valid passport issued by the sending country i.e. the 'child's nationality or residence' (AtoZ, 2008, p. 19).

While the UK and US child naturalization processes are similar, the US process categorizes entering children differently and in a manner that materially alters the terms of children's entry. The critical differences between the child entry terms of the US and the UK is that US parents are not required to make a separate application for citizenship for their adoptee, whereas the processes are distinct in the UK. The US government adjustment of the immigration law for children that makes citizenship acquisition automatic for parents who comply with regulations at all scales is a critical point of difference in the processes of the two countries. Once the child's adoption in the sending country is verified with US authorities or the child is adopted in the US, the child becomes a naturalized citizen under the terms of the *Child Citizenship Act of 2000*. In effect, omitting the need for a separate citizenship application for a child post-legal adoption

obviates layers of increased cost, complexity and possible delays for individual US families. In sum, the requirements for TNA adoption and the sending country stipulations may be similar for UK and US parents but minor differences in the domestic processes of naturalization of the adoptee post-immigration may add to the perceived complexity of the practice and also more fundamentally threaten the equity of civic affiliations within the receiving families.

Evaluating the Breadth of TNA Adoptee Civic Interests Across Scales

The required process of child naturalization, in addition to altering the political identity of the child adoptee, arguably causes a corresponding shift in the political identity of the family who receives that child. While some scholars have examined the influence of adoption type on cultural acceptance of family groups (Freundlich, 2000b) and evaluated the varied impact of adoption on the activities of multiple adoption parties outside of the receiving families (Freundlich and Lieberthal, 2001), neither body of works have specifically analysed the broader impact of protecting children's civic interests on those parties. I presume here that the protection of children's civic interests within TNA spans from pre- to post-placement processes. In tandem with naturalization processes that establish adoptee interests within the receiving country, post-placement TNA processes commonly involve origin searches and/or technologies of parental verification that go into formation of a child's political identity.

Evaluated more broadly, the assignment, re-assignment and protection of children's civic interests may differentiate this practice from other reproductive methods and even among national classes of receiving families. The evidence of

civic diversity within the global category of receiving families or within the individual families themselves raises issues about family differences and the governance of family inequity (Fix and Zimmermann, 2001). A few scholars such as Bhabha (2004) have explored the unique manner in which children acquire or exercise citizenship interests conveyed through multinational or national laws (Bonthuys, 2006). Another group of works examine the impact of particular types of adoption on the cultural acceptance of receiving families (Freundlich, 2000b) or the impact of adoption on the activities of other parties to the adoption practice (Freundlich and Lieberthal, 2001).

The topic of children's rights relates to much larger, and yet unresolved, ethical and scientific international debates within the reproductive health care community about the legal interests of infants and parents (Cook and Dickens, 1999; ESHRE, 2009). This concern has been a longstanding component within discourse around the legalization of certain contraceptive methods (United States, 2007), abortion (Kovacs 1999), and the use of reproductive materials for non-reproductive uses (Svendsen and Koch, 2008). With advances in reproductive medicine, there is an accompanying probability that the rights now extended to infants may be extended to infants before birth, in some jurisdictions (Chesney, 2001). Such extensions may mandate not only changes in reproductive regulations but also the development of a common understanding for children (Raposo and Osuna, 2007). Although the Polish court ruling must be interpreted with the understanding that national democratic traditions and reproductive policy history differ considerably from UK and US norms. Nevertheless, the ruling is part of an overall trend that exemplifies the possibility that the age at which the law recognizes of children's rights susceptible to change, particularly when human rights concerns inform definitions of civil participation and responsibility. Such extreme extensions of rights and responsibilities, I assert, cannot be executed in a practical sense by infant adoptees. The assignment of a

broad range of civic rights to children is not responsive to the real physical and physiological abilities of this class nor does it account for the disparities in maturity levels across the child population. Similarly, very young children are unable to fulfil the range of social and civic duties required of adults to maintain the function of democratic societies in areas like humanitarianism. This interrogation of the unlimited extension of children's civic interests precedes the more detailed examination of the conflict of law around decision making for children that I analyse in the ensuing review of TNA global governance.

I believe that the UNCRC, in protecting the civil interests of TNA adoptees to their country of origin as well as their country of residence, permits levels of civic agency that differentiate TNA receiving families from families formed through alternative methods. The lack of civic homogeneity in TNA receiving families is definitive under the UNCRC Article 7, §1 provision that every 'child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality'. This suggests that TNA adoptees may have multiple national ties, whereas the receiving families have a single national tie, which is an added differentiating factor between children and other family members. The practicality of childhood self-determination differs from the 'imaginary of the active child citizen', a notion furthered by Daiva Stasiulis (2002). In contrast to Stasiulis, I believe that the age of the average TNA adoptee prevents him or her from having any practical ability to fulfil the civic responsibilities expected of adults.

Turning now to explore the non-uniformity of civic diversity across the global class of receiving families, I examine measurable differences in the political economies of receiving families residing in the UK and the US. On one hand, families residing in the UK have level of mobility within the European region, even though the EU seeks to increase regulations on reproductive

economies (Hervey, 1998). On the other hand, US parents have an increased ability to contract for a variety of reproductive services in a manner than results in a different, technologically and economically enabled, family mobility (Valentine, 2004). The inequities in family types generated by the communication of civic interests to children relates to an underlying reason for social worker and theorist Memoona Moosa-Mitha's (2005) to assert that policymakers must begin to define new, 'difference-centered' models for childhood citizenship rights.

As an alternative to the current method of citizenship assignment, which pertains to the naturalization of individuals with an adult capacity for social participation and responsibility in most cases, Moosa-Mitha proposes a relationship-based model for allocation of civic interests. She uses the term 'difference-centred models of citizenship' in reference to the connection between certain groups and the nation states in which they maintain obligations and interests. Her conceptualization depends more upon horizontal familial relationships between parent and children. This configuration of parent and child relationships is political in nature and challenges the vertical paradigms of absolute equity in citizenship relationships that require a state intermediary. Based upon an understanding of a civic relationship that does not go through the state, she suggests, that citizenships can be 'differently equal' (2005). In the end, Moosa-Mitha's suggestion is a refreshing departure from configurations of children's citizenship rights that merely mimic adult notions of citizenship rights and responsibilities and depict children's rights as similar to other politically 'marginalized' (Storror, 2006) and underrepresented populations such as the disabled and women (Freundlich, 2003; Dickens, 2009; Prout and Campling, 2000; Prout, 2005; Van Bueren, 1995). Based on Moosa-Mitha's idea, the current method of configuring children's citizenship can be understood as an alternative

to, rather than a departure from, 'adultist' conceptions of children's geography that receive frequent criticism by theorists of many disciplines.

The notion of relativity within citizenship interests implies that international childhood or childhood mobility may also differentiate TNA receiving families from other global populations. Ruth Lister (2007b) articulates a similar, feminist-based perspective that challenges prevailing ideas that institutionalized or regulated state care is a political intrusion into domestic spaces. She suggests an alternative notion of civic responsibility. Lister (2007a) asserts a broader definition of civic responsibility than is customarily considered in reference to families. She states that 'the importance of spaces and places of citizenship notwithstanding, the key determinant of whether or not an action constitutes citizenship should be what a person does and with what public consequences, rather than where they do it' (2007, p. 57). In this comment, Lister offers an interesting and alternative conception of the difference between public and intimate political spaces that goes beyond traditional feminist theories of civic responsibility.

In Lister's (2007a) comparative study of responsibilities within the public and private spaces of domestic workers, she notes that public spaces of work are actually the private domiciles of their employers. Conversely, the private spaces of employed domestic caregivers become public through state regulation of their work or workplace. Using this notion of the separation of public and private civic responsibility as an analogy to explore family relationships, I develop a parallel argument around the division of civic responsibilities within TNA receiving families. If humanitarianism is taken to mean primarily globalized forms of 'care' and responsibility, then the private relationships of TNA family members can be seen as publicized since their connections are made permanent through adherence to international law and only at points of common civic

affiliation. The difference in the quality of receiving family relationships across interpersonal, national and international scales is a form of politicization. Yet the political identity of receiving families, as a global category, constitutes less of the intrusion of a single state and more of nexus for the connection of multiple, simultaneous citizenships.

Examining Sending Country Sovereignty over the Populations of TNA Adoptees and Receiving Family Populations

The relationship of UK and US TNA receiving families to locations outside of the countries in which the parents reside increasingly directs the demographic characteristics of these national populations after the Hague Convention requirements that sending country interests must be considered in child placement decision making (Dickens, 2002). In tandem with the previous study of receiving family civic characteristics, I turn now to investigate the impact of placement requirements imposed by sending countries on the creation of receiving family populations. Sending country interests may have an impact on the eligibility of perspective parents to adopt a child and dictate requirements that a child maintain connection to his or her country of origin.

Based on a review of current practice events, rhetoric and policy statements around this theme, I argue that the current areas of sending country involvement in the placement process are critical and uniquely alter the primary locus of civil accountability for receiving families away from their country of residence. By adhering to sending country stipulations, not only are TNA receiving families subject to sending country laws but also the domestic policies of sending countries. I believe that sending country stipulations may thwart the sovereignty of receiving nations over the ultimate attainment of their family

policy goals and also alter composition of sending country family populations *vis a vis* the adherence to the terms of the country policies as well as multinational laws.

The two most notable types of sending country involvement in TNA are the imposition of parental requirements that are firstly more stringent, personalized and quantifiable and, secondly, constitute a perpetual maintenance of civil rights for children after placement finalization. The multinational laws caused a shift in the location of decision-making authority away from receiving countries and families towards sending countries. I now explore instances that evidence the fact that sending country involvement, both real as well as perceived, may have an undervalued affect of differentiating these families from other family types the UK and the US.

In the first example, I cite a recent demand on prospective parents by the Chinese child welfare national authority (CCAA) to provide increasingly detailed verifications of family suitability for adoption. Evaluated statistically, China sends the most children for overseas adoption of any nation in the world. Between 2005 and 2008, China sent a total 24,211 children to the US and 536 children to the UK but also 973 children to Canada, 1286 to Sweden, 7960 to Spain, 715 to Norway and 1282 to the Netherlands, etc. (AICAN, 2009). Therefore, any stipulations set by the Chinese authorities have a far-reaching impact on the family development practices and the demographic characteristics families in almost all receiving nations. Although most sending countries require that parents meet minimum or maximum restrictions on age, standards of physical health, psychological fitness in addition to other qualitative interests in the cultural heritage and well-being of the child, China has also set new and more stringent thresholds for parental configurations, socio-economic levels and physical attributes.

One of the most recent and striking of these standards is the China mandate that prospective parents meet an objective physiological standard. Beginning in April of 2008, the CCAA implemented a policy that adopters of Chinese children must submit results of a *body mass index* test (BMI) as an indicator of parental physical health (CCAA, 2008). The CCAA requirement that parents have a BMI rating of 30 resulted in a rush of prospective adopters to apply for children before the CCAA went into effect. The BMI cap issued by the CCAA followed an October 2005 policy prohibiting the adoption of children by single males or same-sex couples. The Chinese authorities, believing homosexuality to be a 'psychiatric disease', instituted the requirement that prospective adopters must supply proof of marriage. Evaluating both stipulations in relation to the family law standards in the UK and the US shows the CCAA rules may result in a violation of UK and US adopters' civil liberties around reproduction. While these stipulations are valid under UNCRC and Hague Convention terms, the receiving country adherence to the multinational law forces adopters to revoke domestically protected civil liberties.

Secondly, I explore the impact of technological advances on morphing and legitimating and expanded civic connectivity of adoptees their countries of origin. Under the UNCRC, children are entitled to maintain connections to sending children and birth families for an indefinite period after placement. I believe that the technologies allow creation of 'open' records mandates but also may negatively compromise the civic cohesiveness of receiving families and the family populations in receiving countries. For instance, genetic testing is now recognized by the USDS as a valid means to determine parental connections and is commonly used to ascertain a child's location of origin (USDS, 2008).

Many of the key child sending countries to the US and UK have recently shifted policies around the continuation of the TNA practice at current levels. One of the most evident example is a direct statement by South Korea in 2008, a historically major child sending country to the US, and India, a primary sending country to the UK. Both nations have officially stated their plans to restrict the number of children available for permanent, foreign, non-biological family placement. Both South Korea and India have released large numbers of children for adoption by prospective UK and US families. This policy shift indicates a departure from unrestricted TNA growth and the longstanding commonwealth arrangements and post-war aid efforts that contributed to the development of these countries into primary sending countries to the UK and the US.

In December 2008, South Korea government issued a press release about a policy changed aimed at bolstering domestic family policies and encouraging the domestic adoption of Korean children by Korean families. One of the most notable features of scheme was the initiation of repatriation schemes that would specifically support the emigration and civic inclusion of any South Korean adoptee. South Korea was not only one of the first countries to send children for US family placement but this nation also has sent more children to the US than any other country. Until 1991, adoptions from South Korea comprised 30% of all TNAs to the US, totalling an estimated 100,000 children between 1958-2001. South Korea remains one of the top three sending countries for placement with US resident families (EDSAI, 2007). In contrast, the policy on releasing children for adoption by several economically developing countries has fluctuated widely over the 2000s. For instance, the Indian government in 2007 indicated that approximately 4000 girls of orphan status were 'languishing' in poor quality state care. To address this domestic concern, India loosened the restrictions on inter-country adoptions to British, American and European potential adopters (Nelson, 2007).

Yet, the ability for individual sending countries to encourage international adoptions may not be immediate. Indian child welfare authorities anticipated that rises in child emigrations for TNA may take several years to realize, given the fact that the policies of receiving countries, the Hague protocols around process regularization and family level preferences also contribute to placement patterns on other scales. Were any TNA repatriation policies to be completely successful, the complete repatriation of all South Korean children adopted by US families would result in the emigration of approximately 250,000 naturalized US citizens. While the size of this population is far from large in comparison to other immigrant or naturalized communities, I argue that such shifts in sending country policies have still undervalued impacts. One impact area is quantitative, and pertains to the loss of a naturalized population. Another impact area is the extension of sending country national sovereignty interests – by claiming citizenship responsibilities on post-placement adoptees – that would alter the political configuration and composition of receiving families and possibly erode the perceived permanency families created by this type of adoption.

What this exploration of receiving family civic attributes suggests is that this reproductive method produces families with fundamentally different civic complexities than families formed by alternative methods. In the initial phases of the majority of TNA child placements, receiving parents have a different affiliation with their country of residence than their adopted children. Despite the fact that child naturalization establishes a permanent civic affiliation between adoptees and the country of their receiving family, adopted children may still maintain a civic connection to their country of origin, potentially in perpetuity. As sending countries consider launching more aggressive repatriation schemes, the civic ties of adoptees to the countries of their birth will lengthen until well after placement and even into adulthood. While the maintenance of adoptee

interests with their country of origin can be understood as a protection of adoptee interests, I believe this may also result in a destabilization of the civic cohesion of receiving families, ruin the political parity between family members and erode perceived permanency of families created through this method.

The notion that TNA creates families with members that have multiple identities resulting from the metaphorical action of, what Katherine Pratt Ewing termed, 'border-crossing' (1998, p. 262) has not been evaluated as generative of political inequities. Yet, I believe that Ewing's theories are a particularly apt means to conceive of modern political identities. In Ewing's conceptualization of the descriptor, she maintains that the identities of certain populations are diverse because they are mobile or fluid across conceptual borders of ethnicity, social and cultural boundaries. In a departure from traditional conceptions of political identities that included national citizenship or international populations, Ewing notes the difficulty in adjusting conceptual frameworks to address the concerns of communities that cross less-obvious, metaphoric borders rather than traditional physical territorialities or nation states. It follows, I argue in alignment with Ewing, that the equity of the multiple civic identities of adoptees and the diverse affiliations of their receiving families are ill-conceived and possibly not protected under the law, because it does not recognize aspects of identity that occupy multiple spaces within a psychologically based landscape.

These developments are fuelled by the increasing availability of advanced origin search technologies, better recordkeeping and changes in sending country interests in preventing the loss of their population resources. Although the various laws of TNA aim, in part, to support the cultural normalization of these families and prevent discriminatory treatment and family equity, as I will explore further in an explicit evaluation of regulatory equity within the review of TNA law that follows, I question whether this is accomplished. In the end, this

study indicates the need for further exploration of the impact of technology use on the complexion of the receiving family populations. At the least, this examination supports the idea that technology and interfamilial civic diversity has created a unique set of TNA receiving family demographic characteristics. These attributes, I argue, are more similar to other transnational and international family types than in previous periods of the practice.

Conclusion: Citizenship Complexities TNA Family Populations

In this comparative review of the national UK and US trends and global patterns in transnational child adoption, I have responded to research questions aimed at verifying the size and the demographic characteristics of the UK, US and global TNA receiving family populations. The primary aim of this analysis was to verify suppositions about the actual impact of this reproductive practice on receiving country populations. This study in human geography differs critically from the majority of existing studies on TNA, conducted within related disciplines of anthropology and other social sciences. The most notable of these examine only the changes in the population size or attributes of particular groups of child adoptees, such as adoptees from a single sending country as in Anagnost (2000) or Hubinette (2004) or focusing on the issues involved in transracial adoptions, as discussed in Simon et al. (1994) and Simon and Roorda (2004). Taking an alternative focus, this chapter compares trends in national TNA practices to suggest this global reproductive method is constitutive of a global receiving family population.

To assess the current TNA practice and the size of the global category of receiving families, I reviewed numeric trends in TNA family development as

well as for similar reproductive practices, national infertility levels and child immigration levels for several primary receiving countries. Throughout this assessment, I have maintained focus on UK and US statistical trends over the period of the greatest recorded growth in TNA history, namely from the time that the UK and the US entered fully into the terms of the multinational TNA regulation in 2000 to the present. Since very little research exists on TNA receiving families specifically, as either a national or an international population, one of my initial aims for this review was to develop a more accurate understanding of the size of the TNA practice in relative (using adoption ratios and comparisons) and absolute (numeric) terms. I obtained and verified data through periodic quarterly sweeps of statistics TNA published by governmental, NGO, and international adoption research organizations between 2006 and 2008. To offset data deficiencies, I consulted data from a range of reliable government, NGO and adoption research sources. I believe that my efforts to source and compile data on a range of related topics was sufficient to permit accurate analysis of longitudinal trends and forecast future practice trends in a manner. Based upon this, I successfully countered assumptions that the poor quality of available statistics prevents quantitative analysis of TNA and challenged the belief that TNA is still a marginal practice. My research benefitted greatly from the ongoing increase in quantitative information on TNA, brought about by UK and US compliance to multinational laws over the survey period, and extensive use of comparative research techniques, which all improved the overall robustness of datasets.

Based on a review of national processes, I found similarities in the demographic characteristics of UK and US receiving families upon which I further developed the argument that TNA receiving families are an international population. Using a mixed research methodology, in which I used quantitative findings to direct my qualitative assessments, I investigated the diversity in civic

affiliation of receiving family members as a universal, but under-examined, attribute of receiving families. I further asserted that the diversity in the civic composition of these families constitutes a substantial difference. This claim critically presages a main argument of my analysis legal equity within TNA governance within the subsequent chapter. As a precursor to my analysis of the rules of law, I suggested here that civic diversity is an articulation of geographic difference among family members. I assert that civic diversity is a unique characteristic that differentiates TNA receiving families from all other family types, including families formed by traditional reproductive methods and other internationalized methods.

My combined quantitative and qualitative analyses suggested that the impact of TNA on the populations of receiving countries may be disproportionately greater than indicated by the actual size of the receiving family population, as it is currently measured and categorized. The routine method of assessing receiving families only in reference to the total family population of their country of residence, can appear to confirm the view that TNA is a marginalized practice that produces an insignificant family population. As an illustration, the US is a country that has received almost 50 times the number of children as the UK, although TNA receiving families constitute only approximately .02% of all families (USDS, 2008; USCB, 2008). Therefore, assessments of TNA receiving families, in isolation, may further the supposition that changes in this small sub-population of families have little impact on broader patterns of national family building.

According to the findings of this research, the demographic characteristics of receiving families that result from geographic differences may distinguish them from other families. Yet, I also found evidence of similarities in the attributes of TNA receiving families and other transnational family groups. In

reality, this reproductive practice creates families in which the national origins of parents and children differ. Unlike families created through domestic methods or other international methods, TNA receiving families maintain a unique diversity in national affiliations. Since the child placement process is universally standardized, in accordance to multinational law (i.e. the UNCRC and the Hague Convention), I argue that the family category is correspondingly global. I affirm this in spite of the fact that UK and US interpretations of the multinational law result in some differences in processes, required economic exchanges and exercise of individual interests (to be explored in ensuing chapters), the basic characteristics of receiving families are relatively consistent across receiving nations.

Drawing from this evidence, I maintain that TNA receiving families constitute a particular form of transnational family. TNA receiving families share an undervalued commonality of civic diversity with other transnational family types. If TNA receiving families were analysed along with other transnational families, I argue that conclusions about the impact of TNA may seem greater than what has concluded within individualized studies of TNA families or research on adoptees alone. Therefore, I argue the merit in future analysis of TNA populations to investigate the numeric contribution of TNA receiving families to wider patterns of internationalized family building.

At the time of this writing, TNA is unique in that child naturalization occurs as a distinct process within TNA child placement. This situation may soon change. The urgency for such research is evident when considering the rapid advances in technologies used routinely in reproductive practices for parental verification, post-placement birth parent searches or origin verification purposes. I note the protections now afforded children adopted through TNA to civic rights in their countries of origin under the UNCRC protections for

children's interests in maintaining heritage or cultural claims (Art. 8), family correspondence (Art. 11) or access to accurate information in promotion of their 'social, spiritual and moral well-being' (Art. 17). I cite other measures of, what I regard to be, a characteristic of civic instability in receiving families. In particular, I note the new ability for TNA adoptees to revoke their affiliation with receiving countries in response to more aggressive sending country repatriation schemes, as proposed by Korea and India (2008). With these examples, I suggest that differences in the civic affiliations of various receiving family members is substantive and unique to TNA receiving families, although this characteristic is shared by other types of transnational families.

Analysing this characteristic further, I then explored the potential inequity produced by civic diversity among family members in an examination of existing work, within areas of geographic study, on various types of global and transnational families. I argued that TNA receiving families are a population that merits inclusion into existing research on families more commonly regarded as transnational. The political economies of TNA receiving families differ from may be considered analogous to those commonly associated with other transnational families, which are more commonly characterized by their contribution to global labour markets or particular industrial sectors (Bryceson and Vourela, 2002; McDowell, 2000b; Santos, 1995, 1998, 2002; Freeman, 1984, 2003) rather than their compliance with universal standards of human reproduction. In fact, I believe civic diversity is a characteristic that TNA receiving families share with other transnational family types in which the national affiliation of family members differs in spite of legal cross border exchanges and migrations. In the end, I aim for this chapter to initiate geographic research on family population groups possessing similarly critical demographic characteristics.

Looking more broadly across family categories permits a more realistic evaluation of family political geographies through existing areas of transnational family research as well as other evaluations of reproductive equity. Persistent differences in the civic affiliation of individual family members is a critical demographic characteristic of the TNA receiving family population that has been overlooked within more traditional approaches to and areas of study of TNA. Based on a comparative review of UK and US TNA family building trends, I have argued that pervasiveness of civic diversity as a demographic characteristic that is not unique to TNA receiving families of a single nation. Although some similarities in the characteristics of various family groups becomes more evident after a detailed review of the legal process of international adoption, very little research has been devoted to further demographic analyses of similarities across family populations. Countering traditional assumptions that such research is unnecessary for reasons of statistical marginality, threats to humanitarian goals or presumptions of equity among families, I believe that comprehensive research on global family groups supports greater national policy efficacy, family equity and management of the changing civic complexion of receiving nations such as the UK and US.

Chapter 5

TNA Governance and the Irregular Regulation of International Family Building Contracts

Introduction

The current method of governing the practice of transnational child adoption, through the *United Nations Convention on the Rights of the Child, General Assembly resolution 44/25 of 20 November 1989* (or hereafter, “UNCRC”) and the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption* (hereafter, ‘Hague Convention’ or ‘Hague’), is widely regarded a successful and much-needed inclusion of the child population under human rights legal protections. The first UNCRC measure, enacted on 12 December 1989, contained 52 Articles and 2 ancillary provisions that set forth general protections for the interests of the child population and established standards for decisions involving children’s lives within a broad range of activities. Within the UNCRC, the Article 3 states that the ‘best interests of the child’ be ‘primary’ in any decisions involving the lives of children. Although almost 25 years old, this standard, commonly abbreviated as the ‘best interests’ standard, is now one of the most universally adhered to human rights provisions and the overall UNCRC instrument remains the most comprehensive and legally binding child welfare protection measure now in effect.

The second law, the Hague Convention, is an enforcement measure. The Hague set up protocols for the conduct of all TNA component processes on national and local levels to ensure national compliance with the global UNCRC

terms. One of the most significant accomplishments of the Hague Convention was to increase the number of nations enforcing national policies on TNA in compliance with the global terms. This was accomplished through the Hague requirement that parents residing in compliant countries only send or receive children with other Hague adherent countries. The combined effect of both measures has been an increase in the range of legally protectable children's interests and an expansion in the scope of standard adherence. Both these developments have caused many legal analysts to presume that the global extension of children's human rights interests is the most effective means by which to regulate international family building practices.

In this chapter, I present a formally laid-out, predictive⁵ legal analysis⁶ of TNA law and policy that responds to the main question: *is the current international governance of TNA, which universalized the 'best interest of the child' standard in the late 1980s, still an 'efficacious' method by which to regulate TNA practice across all scales?* This assessment of the law focuses specifically on identifying variations in the presumed intent⁷ of the laws and policies across

⁵ I presume a definition of *predictive* legal argument as per standards in Scribes Journal of Legal Writing; the Association of Legal Writing Directors ALWD, the Legal Writing Institute as well as Huhn (2002), Garner (2002) and Edwards (2006). Predictive arguments, as opposed to *persuasive* legal arguments are used for advocacy in trial or appellate court settings (Fontham et al., 2007; Scalia and Garner, 2008), and routinely used in legal memoranda and briefs aimed at assessing public policy, jurisprudence, etc. The predictive argument approach benefits this particular analysis because it presents an evaluation of the law in the UK and US contexts, assesses the commonalities in the two national applications of the law, and presents instances that explain the likely impact of the current regulation in the future, based on a review of evidence in current situations.

⁶ This analysis is in a formal CREAC (Initial Conclusion, Rules, Explanation, Application of Rule, Restatement of Conclusion) variation of an IRAC analytical paradigm (Issue, Rule, Application of Rule and Conclusion) (Edwards, 2006; Huhn, 2002; Garner, 2002) for the reasons detailed earlier in the review of methodology in Chapter 3.

⁷ *Intent* here refers to the mental purpose, aim or design of legal interferences to accomplish a stated goal. The notion of legal intent, particularly within instances of international family building, is a vast topic that merits exceptional consideration on its own within further analyses of the legal geographies of family building. In this work, however, I discuss the role of intent in relationship to varying national policy interpretations. Accordingly, my development of the concept of civil intent, within TNA regulations on all scales, aims to contribute to studies of intent

scales and in evaluating equity in family access to TNA across practice jurisdictions, which I will argue here as indicative of legal efficacy. My response to this query analyses the efficacy of applying a global child protection standard to the governance of individual family development practices. I evaluate this from the sub-national perspective of receiving families and nations. In addressing the second question, I investigate the impact of the law across the various TNA practice scales asking: *does the current policy equitably support the interests of all parties that participate in this multinational practice?* To achieve this, I compare national policy interpretations of the universal 'best interests' standard in the US and UK respectively and measure each countries' contribution to the Hague's global aims for child welfare protection within the TNA practice.

Based on the review of the legal history and current policy interpretation that follows, I respond negatively to both questions in the end. Given a synopsis of the arguments contained in this review, to the first query, I argue that the existing laws are not an efficacious means to govern this method of globalized family building. To the second inquiry, I affirm that international governance of TNA fails to resolve, and may even contribute to, conflicts among the interests of parties participating at national and local practice levels. In conclusion, I argue that the conflicts of law and conflicts of interests between TNA parties is sufficiently great to hinder the aim of the UNCRC and the protection of a full range of children's physical, political and psychological interests.

In developing my argument, I review the court rulings of recent disputes, policy practice trends and the considerations of legal theorists in order to assess how the conflicts of law produce inequities in parental access to TNA. These

in the legal construction of mutually beneficial relationships (Unger, 1956), international private contracting (Kierkegaard, 2004), in the development of public international law (Burgenthan and Murphy, 2007) and cross cultural variations in legal interpretation (Messick, 2001).

inequities, beyond theoretical considerations of justice alone, practically thwart the aims of the best interests standard in global protocols such as the Hague convention global measures. The intent of the law is broadly stated at the outset of each multinational instrument. The overall aim of 1989 UNCRC is to extend human rights interests to the global child population, and the aim of the Hague is to ensure that nations with families who engage in TNA are coordinated in their efforts to maintain similarly high levels of practice standards. Yet, in laying out these overall conceptual aims, neither measure accounts for the local intent for family creation and the national interest in population replacement that are essential for a TNA child placement. Although I acknowledge that the UNCRC standard and the Hague protocols may efficiently protect the rights of children, I also maintain that this presumes that the globally constructed intent is dominant. In practice, this is not true. My evaluations reveal that national policies are just in their country-level impact but may, in fact, go on to *counter* the humanitarian intent of the multinational law in some important respects.

To evaluate variations in the perceived intent of TNA law across various practice scales. I specifically extend theories developed by legal geographer Michael Freeman (1984, 1999, 2008) on scale based legal intent. Freeman posited that the legal intent of a family policy - meaning the stated aim of a legal instrument to cause a particular, socially beneficial outcome - varies according to jurisdictional scale. In other words, whilst the overarching intention may be singular the way in which the laws are made operational at various scales proves to ultimately expose differences in the presumed practice intent. This is evidenced, as my analysis will show, in observable differences in the way various TNA laws support family construction at local levels, and then in the way it regulates the cross-border movement of children and the protection of children's welfare at the international level. While these varied aims may appear to be reciprocally beneficial to all parties and are not confined to a single scale of

interest, I argue that there may be practical difficulties in concurrently fulfilling various interpretations of the intents of this law within this complex practice of international kinship building. Furthering Freeman's approach to the analysis of family law, I argue that conflicts of interest among the parties are not reconciled under the current laws and constitute a *de facto* failure of the international regulations to govern the local TNA practices.

This chapter evaluates the global efficacy of the TNA humanitarian-based law through two analytical sections. The first section examines the current absence of measures to determine policy efficacy for child welfare protection in national instruments. My use of the general term *policy efficacy* borrows elements from its customary use as a method for evaluating economic policies and contract regulations within the UK and the US. In particular, I acknowledge the required satisfaction of contracts and the necessary financial transfers in this practice. My reference to efficacy now and throughout the chapter is intended to shift TNA regulatory evaluation away from purely humanitarian assessments of welfare protection to include also the protection of civil and contracting interests that are necessary precursors to child placement. Then, the second section reviews current TNA practices in order to reveal evidence of the deficiencies in application of the UNCRC 'best interest' standard and the Hague enforcement measures. Throughout both segments of this assessment, I compare UK and US national policy interpretations aimed at complying with these multinational standards. Based on a review of evidence in this two-part analysis, I question the extent to which UK and US national policies actually protect the welfare of the global child population through processes of TNA.

In a unique manner, my analysis aims to assess geographic differences produced by the regulation of this complex and multi-scaled practice. This study is timely as the review illustrates that great variances have emerged in national

policy interpretations of these standards between receiving nations such as the UK and the US. Some commentators on TNA law have looked at some, but not all, of these conflicts. They include a varied group of social welfare enforcement authorities operating on national and local scales, legal drafters, social work professionals, adoption advocates, scholars within various sub-disciplines of the law and members of the humanitarian legal community. Among this varied group, few of these analysts have aimed to evaluate the possible inequity produced at local levels by the international Hague governance requirements.

The most vocal interrogation of the law came from a few analysts who expressed concerns about the national interpretations of the universal ‘best interests’ language. In spite of their reservations, most critics seem to believe that the merit of protecting the interests of children outweighs any need to conduct a detailed review of the hindrance that interpretive variations (which are permitted under the Hague terms) can bring to TNA practice. In contrast to these positions, I found evidence that suggests that the conflict of laws among parties at various practice levels *does* actually cause considerable material differences in parental access to TNA. In this review, I cite key facts in UK and US case law on TNA disputes and multinational policy discourse in which I found that receiving country understandings of a universalized child protection standard did not fully support the originally stated humanitarian intent of the law.

This analytical approach is an effort to measure the extent to which UK and US policy variations fulfil the primary legal intent of the UNCRC and the Hague mandates. In contrast with other reviews, I do not presume that the aim of these global regulatory standards should be construed as broadly and exclusively ‘humanitarian’ e.g. to deter crimes involving illegal child immigration, for-profit child placements or child trafficking. Instead, working

off the legal economic and microeconomic theories of Landes and Posner (1978), Epstein (1995), Rayo and Becker (2007), Becker (1981) et al., I argue conversely that such protocols also satisfy other, more self-interested, aims such as to create a family or to assure the existence of intestate heirs. While I concur that global instruments may effectively deter international crimes of child immigration, I believe that they should also facilitate workable child placements, protect the interests of receiving parents, sending nations and receiving nations and support the satisfaction of contracts made between these parties. Given this, I conclude that the inadequacy of the Hague to protect these supporting but necessary interests effectively prevents children from receiving family care that meets UNCRC standards, per the arguments of legal sociologist Elizabeth Bartholet (1999) and Bartholet and Hall (2007).

Reviewing the Universal Rules of Law and Examining Variations in the National Application of the 'Best Interests' Standard

In the short period during which international adoption has become a prevalent method of family formation, from the mid-20th century to the present, there has been a significant evolution in the governance of this practice. While the law has been an everpresent aspect of the practice throughout its history, the current regulations divide the practice into many more discreet regulatory areas of governance. In the earliest recorded child adoptions, the function of the law was to secure successors for intestate, propertied Romans (Bridge and Swindells, 2001). Much like the earlier law, the current adoption law also legitimates kinships between biologically unrelated parents and children. Currently, all decisions involved in child placement are governed by single multinational 'best interests' standard. Yet, the current regulations also have the added function of generating equity across family classes in various ways. One effect of the law is

the assurance that families formed through TNA receive equal treatment under the law and within social contexts (Bridge and Swindells, 2001). The primary difference between domestic adoptions and international adoptions is that the family placement of a foreign born children must meet the requirements of a greater number of legal jurisdictions than intra-national placements (Holgate, 1988). International adoptions additionally require that prospective parents contract directly with parties across national borders, comply with multinational protocol directives and, in many instances, meet the prerequisite demands of the child's country of origin.⁸

The current standard bearing law for all TNA practices is the *United Nations Convention on the Rights of the Child* in 1989 (Document A/RES/44/25). This measure is the culmination of a series of UN resolutions pertaining to children that have evolved throughout the 20th century. The UNCRC sets forth the 'best interests of the child' (Art. 3) as a universal standard for family decision making involving children within public and private arenas. The critical legal language of the 1989 UNCRC states that 'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration' (Art. 3§1). This area of law arose in response to pressure from progressive era reform groups, active in early 20th century, such as the Children's Welfare League, to address blatant abuses to children forced into harsh situations of civil service conscription or labour (Melosh, 2002). The first

⁸ I have generally limited comparisons between the broad categories of international adoptions and domestic forms of child adoption. I consider domestic adoption to include the adoption of foster or state managed or 'looked after' children, adoption through marriage and the substantial number kin adoptions. In most instances of this chapter's review, I have not differentiated between the various types of domestic adoptions in many of my references to this method. Since the main focus of this analysis is on issues particularly pertaining to methods of family construction where there is no biological connection between both parents and the child, I have elected to avoid devoting considerable attention to the potentially extensive and involved treatment of every domestic adoption type such as the varied forms of kinship adoption.

child protection measure was the *International Save the Children Union, in Geneva, on 23 February 1923*, endorsed by the League of Nations General Assembly on 26 November 1924 as the *World Child Welfare Charter*. This early legislation extended legal protections for children's material and 'spiritual' development (§1) and offered children protection from 'every form of exploitation' (§4). Nevertheless, this measure was limited because it was a non-binding accord and failed to ensure consistent adherence to legal standards within all areas of children's lives or across all national jurisdictions.

The next humanitarian measure that included protection for the rights of children was the 1948 *Universal Declaration of Human Rights General Assembly resolution 217 A (III)* (or 'UDHR'), ratified on 10 December 1948. This fundamental instrument of humanitarian law conveyed basic rights and protections of law against 'arbitrary interference with his privacy, family, home or correspondence' (Art. 12), to several categories of 'vulnerable peoples' including mothers and children. At this time, the United Nations first included children within a specially protected 'vulnerable' class of persons with 'disabilities' or 'multiple discriminations'. In Part V of a 2003-4 statement by the UN Department for Social and Economic Affairs, Division for Social Policy and Development states, the international norms and standards for this class are stated as follows:

In the field of human rights, growing attention has been devoted to the rights of persons belonging to specific groups, often called "vulnerable groups". People belonging to these groups have certain common characteristics or are in a situation that have been shown to make these people more vulnerable to discrimination. They are especially "vulnerable", because these grounds for discrimination have been overlooked or insufficiently addressed in general human rights instruments. New instruments are therefore needed to protect and promote the rights of these people, focusing on specific characteristics and situations, such as age, gender, social situation etc. These groups include indigenous peoples, ethnic minorities, refugees, migrant

workers, women, children, people with HIV/ AIDS, persons with disabilities and older persons.

The act of designating children as 'vulnerable' has remained in place throughout the successive laws, based on continued evidence of abuses to child welfare in areas such as forced civil service conscription, sub-standard institutionalized systems of childcare and illegal child immigration (UNICEF, UN CRC, 2007).

In addition to this overall protection, the UN has enacted later measures aimed at remedying specific inequities around the exercise of children's political and economic interests. Notably, the *International Covenant on Civil and Political Rights General Assembly resolution 2200A (XXI) of 16 December 1966*, with entry into force 23 March 1976, in accordance with Article 49 ('ICCPR') protected all classes of children's civil liberties and their entitlement to a nationality (Art. 24). Additionally, the *International Covenant on Economic, Social and Cultural Rights General Assembly resolution 2200A (XXI) of 16 December 1966*, with entry into force 3 January 1976, in accordance with article 27 declared the family a 'protectable social unit' (Art. 10). Although the *Covenant* stipulations did not extend explicitly to decision making in areas of child care, nor govern situations in which two families are legally connected to the child, it does differentiate the status of the family from other areas, especially in decisions around children's care. The *Covenant* protected the family with the provision that 'the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children' IECSCR, Art. 10, §1. The *Covenant* set a new precedent for the inclusion of families, as social unit, within humanitarian law, although the standard for national adherence to these protective standards was relatively weak. Similar to

the *World Welfare Charter* of 1926, the effect of the *Covenant* was limited by lack of compliance at the national level.

In an effort to address inconsistencies in the application of the 1926 *Covenant* child protection law, the subsequent *Declaration of the Rights of the Child* (1959) G.A. res. 1386 (XIV), 14 U.N. GAOR Supp. (No. 16) at 19, U.N. Doc. A/4354 (also known as the UNCRC) was aimed at expanding the range of children's protectable interests. The 1956 UNDRC first contained the language that the 'best interest of the child be paramount' (Principle 2), which was refined in the later UNCRC 1989 version of UN law that stands today. Distinct from the 1956 law, the 1989 UNCRC version is patterned off analogous humanitarian legal instruments, aimed at protecting similarly 'vulnerable classes' mentioned within the UDHR as deserving of special consideration. The UNCRC was modelled after the *Convention on the Elimination of All Forms of Discrimination against Women* (18 December 1979), the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* 39/46 (10 December 1984) and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* 45/158 of 18 December 1990.

The primarily area of law that governs the TNA reproductive practice is humanitarian law. This broad area of law works through a specific extension of human rights interests to particular populations, rather than family law or civil law regulation of only selected processes within the overall practice of adoption. The general aim of humanitarian law is to establish globally consistent norms within practices such as TNA as well as generate a 'sense of legal obligation' for formal enforcement of those norms within tribunals on the national or international scale (i.e. *opinio juris*) (Blair, 2006, p. 356). It is critical to note, however, that humanitarian law does not customarily stipulate enforcement protocols for the standards contained therein. Instead, humanitarian law, in

distinction from other areas of law such as social policy or contract law, in which laws are interpreted according to 'customary' or 'general principles of law' (Blair, 2006). The particular dilemma in applying humanitarian law to TNA is that *opinio juris* is unclear and variably interpreted across national and local practice jurisdictions. As articulated by legal analysts Marianne Brower Blair, 'detecting *opinio juris* is often particularly problematic in the area of human rights, where norms often concern a government's treatment of its own citizens rather than its relations with other nations or their citizens' (2006, p. 657). Thus, in cross-cultural applications, such as the UNCRC in TNA, the policies of family building are not uniform across the entire global practice.

The second law governing TNA, *The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (1-V-1995), regulates the application of the UNCRC standards for all TNA processes and within all practice scales. The Hague reviews cross-border child adoption according the UNCRC Art. 21 international 'best interests standard'. The TNA protocols were developed under the auspices of the international civil law tribunal, the Hague Conference on International Private Law, a body that governs the resolution of international disputes within areas of civil law such as cross-border commercial or financial exchanges (HCCH). The Hague Convention regulates TNA by requiring countries with families contracting for TNA to set national policies that adhere to the global UN law and agree to periodic national and local level process reviews, conducted by a multinational Hague Conference Tribunal. One of the primary objectives of the Hague Convention is 'to establish safeguards to ensure that intercountry adoptions take place in the 'best interests of the child and with respect for his or her fundamental rights as recognised in international law; intercountry adoptions must be conducted with respect for the child's fundamental rights' (Art 1§1; HC, 1993).

Comparing the Aims of the Governing UNCRC and Hague Instruments

The stated overall intent of the 1989 UNCRC is to convey ‘fundamental human rights’ to children (a population ‘entitled to special care and assistance’) and to afford them the ‘necessary protection and assistance so that it can fully assume its responsibilities within the community’ (Preamble). Furthering this instrument, the Hague objects are to make sure that ‘intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law’, to prevent illegal child immigration and to force adherent states to recognize adoptions conducted in accordance with the UNCRC (Art. 1 §a,b,c).

The stated aim of Hague Convention – to enforce process standards - differs from the UNCRC in ways that can be used to form the criteria for evaluating the efficacy of TNA governance overall. The intent of the Hague goes beyond merely cultivating the cultural perception of TNA practice ‘success’ that centres on the emotional adjustment of adoptees or receiving families. Alternatively, the Hague also cannot be evaluated against the UNCRC humanitarian understandings of legal merit, that revolve around the remedial inclusion of children as an underrepresented population within human rights protections. Instead, the Hague must be evaluated independently, by the aims stated in the full text of the Convention law (1993) or abridged review of its core provisions (2008).

First, the Hague Convention aims to regulate TNA at all scales of the practice by stipulating the terms for family building contracting. As stated in the

abbreviated 2008 *Outline to the Hague Convention*, issued by the HCCH, a policy overview of full Hague Convention terms, the legal parameters for TNA contracting were developed to 'help to guarantee the best adoption practices and elimination of abuses' (2008, p. 1). The law responded directly to what the Hague drafters believed were 'legal and human problems' that increased with the dramatic rise in the number of largely unregulated TNA placements from the 1970s to the 1990s (2008, p. 1). Based on this particular practice history, the Hague Convention was designed to prevent practice irregularities evidenced in multiple areas of the practice which included contract non-fulfilment by prospective parents, contract non-delivery by agency providers and, more commonly, allegations of frequent for-profit or overcharging for placement services by agencies (p. 3). Most important to this consideration of legal efficacy, the intent of the Hague, as an instrument of private international civil law, does have the sole goal of protecting the human rights of child adoptees, although it was created to support the UNCRC within the TNA practice. Rather, the Hague has the more critical, and complementary, intent to maintain an environment for the satisfaction of legally binding reproductive contracts.

Second and pursuant to the first point, the Convention operates according to four core principles that regulate TNA process contracts across various distinct practice scales in a manner that differs from the universal terms of the UNCRC measure. The first principle of the Convention sets out 'certain rules to ensure that adoptions take place in the best interest of the child with respect of his or her fundamental rights'. The second Hague principle is that countries engaging in TNA should consider this practice an option second to permanent care in the country of origin (also termed the 'subsidiary' principle). This includes the development of integrated national childcare and protection systems. The third principle of the Hague is to protect children from abduction, sale and trafficking. The fourth principle of the Hague is that nations that adhere to the Convention

(‘contracting states’) must have in place an approved Central Authority (government agencies) and a group of approved agents that have a co-operative relationship with respect to TNA.⁹ In terms of the practice geography, the Hague aims deliberately and specific foster co-operation, particularly among sending and receiving nations. The aim is to preserve the national sovereignty of sending and receiving nations in the development of compliant family policies in a manner that protects contracting parties but also enables process transparency through enforcement of clearly defined process parameters (2008).

The final difference between the intent of the Hague and the UNCRC is the manner in which each sets forth universal standards. Rather than providing set qualitative standards and objectives for adherence to the UNCRC standards within all scales and processes, the Hague only ‘establishes minimum standards, but does not intend to serve as a uniform law of adoption’ (HCCH, 2008). Instead of mandating a universally consistent interpretation of standards, the Hague Convention effects process parameters by encouraging greater participation by Hague members (comprised of 72 nations and 1 Regional Economic Integration Organisation) and non-member countries that are parties to the 1993 Convention (numbering 29). The Hague encouraged broader international compliance with the protocols by enabling parties to develop national policies independently, but also subjected national and sub-national processes to review by an international oversight tribunal. Therefore, TNA processes are not fully standardized across receiving countries, but rather processes are critically dependent upon parameters developed at sub-global levels. I take up a more detailed discussion of these three distinctive aims - namely regulating of family building contracting, allowing interpretive

⁹ This system of permitting Central Authorities of Contracting States to co-operate means that nations adhering to the Hague Convention opt to limit receipt or sending of children to other adherent nations. The rationale of this requirement is that children and prospective parents are assured valid and legal placements, when conducted according ‘best practices’ terms.

variations on national levels and protecting the interests of TNA family building parties in my review of the evidence on the current application of the rules of law.

Comparing Interpretive Variations in the 'Best Interests of the Child' Standard Language Between the UK and the US

The UNCRC formalized a new standard for governing intimate family matters such as family building and in all situations involving children. This legislation overturned two centuries of UK and US case law precedents, national legislative measures and civil law traditions. Before the UNCRC 'best interests' standard, the doctrine of *in parens patria* or 'father rule', established in case law rulings such as *De Manneville v. De Manneville*, [10 Ves. 52 (1804)] in the UK, virtually prohibited state involvement in family decision making. In *Manneville*, the court ruled that that the father was primary decision maker for children of 'tender years', defined as less than 7 years of age (Wright, 1999). The *Manneville* ruling confirmed a civil law tradition into case precedence by establishing absolute paternal authority over the rights other family members. Under *in parens patria*, other family members were considered material 'property' of the father and state involvement in family matters was limited to extreme instances presented within individual case law¹⁰. The civil law traditions of the UK and the US similarly favoured non-involvement of the state in domestic affairs, premised on the belief that paternal authority, traditional family hierarchy and family privacy were tantamount to external laws in authoritative weight. The

¹⁰ Under this rule, fathers' rights also took precedent over maternal rights in cases of separation, divorce and paternal conviction for criminal activity or immoral conduct. Exceptionally, non-paternal authorities ruled in extreme cases wherein the child had property and was in "immediate danger of life and limb" or where the woman was single (in which case the woman had full rights over parental discharge and property).

Manneville precedent remained in effect throughout the 18th, 19th and first half of the 20th-century.

The UNCRC, instead of the earlier 1924 or 1956 UN iterations of the ‘best interests’ standard, finally overturned *Manneville*’s precedent of state non-involvement (Goldstein, et al., 1979). In the years before the UNCRC took effect, local social welfare authorities feared that the global regulation of family building, through universal standards, might infringe upon implied or explicit ‘privacy’ protections granted to families through UK common law or US constitutional law provisions. Under the current UK law, families are regarded ‘private’ under the terms of the regional law *European Convention on Human Rights of 1950 (Art. 8)*, which protects a sizeable population of current EU residents who are interested in immigrating to other countries within the European region. Yet, this measure does not explicitly convey interests to families as a population group in the same manner as the UNCRC extends interests to groups, such as children. Under the terms of the *US Constitution, 4th Amendment* ‘reasonableness’ standard for state intrusion and *14th Amendment* provision for ‘equal protection’ under state and local laws, US citizens possess explicit rights to freedom from undue state involvement within related areas of contracting under the Bill of Rights, and Supreme Court precedents such as *Lochner vs. New York*, 198 U.S. 45 (1905), sexual activity *State of New Jersey v. Saunders*, 381 A.2d 333 (N.J. 1977), illegitimacy *Reed v. Campbell*, 476 U.S. 852 (1986) and use of contraception *Griswold v. Connecticut*, 381 U.S. 479 (1965). In spite of these provisions, family interests to privacy and freedom from state involvement within reproductive decision making are not explicitly protected under the current interpretations of the US Constitution.

Examining the possible changes in the geographies of law these measures caused, the UNCRC ratification permitted not only an increase in state oversight

of family matters but also expanded the scope of reproductive regulation. The UNCRC universalized a single global standard for child placement decisions, although the Hague Convention did not stipulate a universal standard for decision making. In effect, the universalization of the UNCRC standard shifted the primary locus of authority for TNA decision making from the family to various levels of state authority. In this process, the enactment of the UNCRC also distinguished families formed through TNA from families created by domestic adoption since international adoptions must comply with Hague regulations in addition to the UNCRC standards. The national protection from state involvement afforded by the US Constitution and UK Common law and the case law precedents for each country do not explicitly protect receiving families from excessive involvement by extra-national authorities within family building practices in the same manner that children's rights are protected under the UNCRC. In the following sections, I examine areas in which the absence of a clear and equitable protection of interests contributes to measurable variations, and possibly conflicts, in the laws across practice scales and between adherent nations.

Reviewing the Efficacy of the Current Regulation Across Scales of the TNA Practice

There is an absence of a consistent or uniform intent for the TNA practice itself that, I argue, is not benign in impact across the receiving family populations. Instead, I believe that very evident differences in the geographies of receiving family members are expressed, rather than protected or made equitable, in the current application of the global law. I believe that national policy variations, as evidenced in a comparison of UK and US TNA practice regulations as well as court rulings, have an inequitable impact on the global

category of receiving families, although permissible under law. I suggest that disparities in the perceived intent of the TNA practice underlie the wide variations in national interpretations of the global standards. On the local level, TNA is primarily a family building method, on the national level it enables population replacement and on the international level, TNA protects the welfare of children who would otherwise not receive adequate care. I believe the inequity in the family populations of receiving countries, produced by the ill-defined practice intent, impede the ability of families to exercise their sovereign individual civil liberties in ways that may undermine protection of the needy global population of children this practice aims, at least in part, to serve. In this detailed review of the current evidence on UK and US TNA practice policies, I will assess the efficacy of the multinational instruments. Based upon this review of evidence, I argue that the variations in the perceived intent of the TNA practice are sufficiently diverse that the globally conceived intent of law is thwarted. I further question whether the current method of standard application under the Hague terms actually results in the equitable treatment of receiving families under the law and across the entire scale of this global practice.

Comparing UK and US Legal Definitions for the TNA Practice

The process of child adoption, although assigned a meaning derived from cultural and historical contexts, has not received a clear and consistent definition under UK or US law. The failure to clearly establish a definition for the modern form of TNA, especially considering advances reproductive practices that can blur distinctions between methods, is the initial point from which regulatory efficacy can be evaluated. The lack of consistency in the general practice definition is apparent a comparison of receiving countries. In the US, adoption is currently understood to be 'the creation of a parent child relationship by judicial

order between two parties [who usually] are unrelated' (Garner, 2001). In a definition that uses similar language to the US family law definition of the practice, the UK *Tomlin Committee Report* (Cmnd 2401) of 1925 stated that adoption is 'a legal method of creating between the child and one who is not the natural parent of the child an artificial family relationship analogous to that of the parent and child'. Most recently, the UNCRC offered a relatively weak definition of TNA that speaks to the implied practice intent. Beyond the basic definition of intercountry adoption mentioned before, the Article 21 of the UNCRC adds that 'inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin' (Art.21§a).

One of the main reasons for the need to refine the understanding of adoption is that UNCRC uses the term TNA to distinguish between legal and illegal forms of cross-border child migration. The UNCRC stipulates that children may legally be moved for reasons of political hardship, as with child refugees (Art. 22), the absence of state support for physically or emotionally disabled children (Art. 23) or other circumstances where the child must be 'temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment' (Art. 20). International Court of Justice Judge Gonzalo Parra-Aranguren and drafter on the UNCRC, described that intercountry adoption was a process of placing 'a child for whom a suitable family cannot be found in his or her State of origin' (1999, p. 10). Furthering other definitions of TNA, Judge Parra-Aranguren also refers to the threshold under which TNA is in a child's best interests with a re-statement of the subsidiary principle. Judge Parra-Aranguren states that a cross-border placement may appear to support children's best interests, '[but we must] give due consideration to possibilities for placement of the child within the State

of origin before consider[ing] the option of inter country adoption (1999, p. 10). Parra-Aranguren fails to clarify the threshold that will ultimately result in child immigration and family building in a way that essentially enables variations in the interpretation of the universal standard on both accounts.

The UK and US policy positions on TNA have change from the time each nation signed on to the UNCRC, in early 1990, to the present. The UK government prioritizes the placement of needy domestic children over the placement of foreign-born children. Pursuant to that end, the UK government refuses to acknowledge some forms of reproductive contracting by UK citizens and prohibits contracting for certain reproductive processes, although the country has not explicitly prohibited parents from TNA contracting completely by law. Instead, PM Tony Blair publicly called TNA as a ‘baby trade’ and ‘baby sale’ proximate to the publication of his proposed *Adoption, a new approach* (Cm5017) on December 21, 2000. In his denunciation of the practice, Blair blurred the distinction between the legal practice of TNA and illegal forms of child migration. Because of the policy change, the UK complies with the global laws and universal standards in a way that supports national practice aims results to restrict the ability of prospective parents to contracting for reproductive services in several ways. The differential treatment of domestic and international forms of adoption under the current policy is the primary topic of my analysis of UK national TNA policy.

In the white paper, Blair proposed an investment £66.5M for a comprehensive range national policy changes and process optimizations to occur over three year period (2002-2005) in areas of placement agency funding and training, legislative amendments, higher home assessment standards, and expansion in the court system to facilitate the ‘wider use of adoption’ (2000, p. 5). The white paper outlined plans primarily aimed at substantially reducing the

number of children in the domestic fostering system and increasing the speed and efficiency of all adoption processes. According to the BAAF Chief Executive, Felicity Collier (2002), although the white paper constituted a comprehensive reform of domestic adoption processes, many of the primary concerns at that time revolved around processes within adoption that were required for TNA placements. Specifically, the white paper addressed concerns about the legality of internet adoptions based on the perceived misuse of the technology within the *Kilshaw v. Allen* court ruling, the UK adherence to the Hague Convention and the protection of children's human rights interests.

The UK concerns for irregularities in the TNA practice and Blair's erroneous implication of the parity between legal and illegal child immigration practices appear well founded, based on evidence of continued wrongdoings. Even as recently as 2009, serious media accounts of suspected child trafficking unearthed longstanding UK public and governmental sentiment against the practice. In the most recent report of May 2009, the UK authorities investigated an alleged child abduction ring called 'Operation Alladin'. In this instance, UK immigration officials found 77 children of Chinese origin held in substandard accommodations near Heathrow Airport. According to officials, the foreign-born children were awaiting 'sale' in the UK for undisclosed purposes (Booth, 2009). This report of illegal child immigration renewed concerns raised years earlier by UK authorities. During the early 2000s, UK authorities discovered that a potentially sizeable group of hundreds of Romanian born children, illegally placed with parents residing in the UK, other European nations and the US. At the time, Romania was a leading sending country of children worldwide. According to reports, many Romanian adoptees released for adoption without birth parent consent or Romanian agencies took direct payments from prospective parents that were in excess of required sums. Both of these acts are illegal under the terms of the UNCRC and the Hague Convention (Dickens,

2002). The UK, in a similar manner to several other key receiving nations within Europe, acceded into the full terms of Hague Convention on June 1, 2003, in part, to protest the potential Romanian child welfare violations and blocked UK parents from receiving children from that country (Collier, et al., 2000).

The receipt of children by US families from particular sending countries such as Guatemala and Cambodia have also been threatened by Hague suspensions, based on continued reports of process irregularities. Yet, the US national policy response to this evidence of wrongdoings and suspensions differed considerably from the UK response detailed above. Unlike the UK, the US delayed full entry into the multinational accords until April 2008, which enabled continued parental access to children from these areas. Both Cambodia and Guatemala historically sent considerable number of adoptees for annual placement with US families. In 2000, the United States Immigration and Naturalization Services (USINS) received 787 children for placement with US families, the highest number of children recorded. An estimated 61% of the Cambodian population is under the age of 18 according to a Cambodia Inter-Censal Population Survey in 2004 (Childsafe International, 2009). In comparison, Guatemala sent 4112 children for placement with US families in 2008. The total estimated population of Guatemala was 13.029M in 2006 and the US Central Intelligence Agency estimates that the child population constitutes approximately 42.6% of the total national population. The most recent estimates on US receiving patterns to this country indicate that between 1,000 and 1,500 children per year were sent from Guatemala for placement with US families within the years just before the suspension (UNICEF, 2009). In a statement indicating the possible future impact of suspensions on the US family population, according to a February 12, 2009 study conducted by the Associated Press, a major US news organization, estimated that 1 in 100 Guatemalan children have been adopted by US citizens (Llorca, 2009)

Beginning in December 31, 2007, the Hague prohibited the adoption of Guatemalan children for suspected violations of child eligibility and failure to verify 'orphan' status or legitimate relinquishment of custody of Guatemalan children. This report resulted in the suspension of child adoptions from Guatemala by the United States Immigration and Naturalization Services (USINS, 20/11/09) pursuant to Hague authority mandates and the filed complaints of five HCCH member nations against accession of this sending country in 2003. Although this suspension was lifted in late 2009, the Hague placed restrictions, starting in 2008, on the adoption of children from Cambodia. According to the USINS, this suspension will continue until at least April 1, 2012, pending assistance from the Hague International Centre for Judicial Studies and Technical Assistance to Cambodian authorities to comply with the multinational standards.

Although the UK has historically received far fewer children from either Guatemala or Cambodia than the US, the UK Home Office has suspended child adoptions from both of these countries indefinitely because of the Hague suspensions. The UK position is also responsive to their earlier experiences with Romania, a country also suspected of violations by sending country authorities responsible for adhering to protocols at local practice levels (2008). In contrast, the full entry of the US into the multinational Hague accord, in April of 2008, essentially prevented US parents from accessing children sent from these child sending nations and incited in a rush of US parent applicants to adopt children from nations set for imminent suspension by the Hague (Llorca, 2009). The continued US policy support for TNA processes in spite of suspected violations, which maintain relatively unrestricted parental access to foreign children from Guatemala for instance, is oppositional to the UK block of adoptions from Romania several years earlier. The divergence in the UK and US responses to

suspected sending country irregularities can be seen as indicative of not only the separation in national policy positions on TNA itself, but also the differences in US and UK policy interpretations of the UNCRC standards and the Hague terms more generally.

Universalizing Children's Identity Interests and Blurring Traditional Distinctions between Domestic and International Adoptions

Sending and receiving nations also appear to hold different positions on their understanding of the non-physical interests of children, in an analogous manner to the divergences in the definition of the practice itself as examined above. A review of these changes is a means to compare disparities in national practice regulations. The UNCRC extends protections to children for non-physical interests in ways that mandate an increase in the transparency of individual TNA practices and the opportunity for inspection by governing authorities. The level of access to confidential birth records and identity information by adoptees or other parties is considered 'open' or 'closed'¹¹ and has traditionally been a sensitive area of domestic, but not international, adoption policies. The UNCRC provisions that granted cultural interests to adoptees has increased the 'openness' of TNA birth records. The legal protection of adoptee access to birth information, termed 'openness', is one area in which the full extension of children's interests has altered the traditional difference between domestic and international adoption and evidenced receiving country policy divergences. In practice, I believe this global extension of cultural interests has contributed to divergences in UK and US TNA policy and numeric

¹¹ Although there are gradients within the general categories of 'open' and 'closed', the purposes of this study do not require extensive treatment of these possible variations.

placement trends by changing perceptions of practice permanency on local levels.

Under the UNCRC, children are granted various rights to family connections. The UNCRC also honours the specific requirements, within pre- and post- placement processes, that permit increased direct contact between adoptees and birth parents. Article 9§3 states that it is necessary to 'respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests'. The UNCRC Article 8, clearly states that all authorities must 'respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference' (Art. 8§1). I believe that the rights to individual identity, family (specifically maternal and paternal connections) and national affiliation that are conveyed to TNA adoptees are subject to different national policy interpretations, based on a comparative review of UK and US practice regulations.

Underlying this claim is the observation that the majority of TNA child adoptees are physiologically too immature to evaluate their interests without an adult. In fact, most children immigrating for placement with UK or US parents are under five years of age. Although a minority of TNA adoptions occur with older children (9-18), over 90% of TNA child placements involve the migration of a child under the age of nine (USDS, UKNS, BAAF). Under the law, the majority of children placed in TNA are under the age of majority (age 18 or over in the UK and the US) and the age of consent (aged 16 or over in the UK and variably 18 in the US) (Waites, 2005, p. 214). Even further, most children placed with parents residing in the UK and the US are under the age of two.

Several of the UNCRC articles extend protections for a range of interests pertaining children's psychological well-being and individual identity. Under Article 5, the UNCRC demands a level of 'openness' in records that has not been either a possible or customary part of the TNA practice. The Article 5 of the UNCRC states that the interests of responsible parties must be protected 'in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention'. Article 5 loosely defines state authority in interpreting children's non-physical rights. As a result, the group of 'infants' governed by the TNA standard require interpretation by responsible adult authorities for the protection and interpretation of a broad range of their legal interests. This means that children under the age of two lack the physiological, emotional and cognitive maturity to have an independent awareness of or full ability to exercise their own 'best interests' until the age of 12. Therefore, the notion of 'best interests' is liable to inconsistent interpretations since children lack the capacity of self-determination in exercising their own interests, as suggested in Eecklaar's (1994) comment about the UNCRC shortly after ratification.

In another extension, the UNCRC explicitly protects interests for children's 'identity preservation' (UNCRC Art. 8). The Article 8, of the UNCRC protects children's access to information about their identity but does not go so far as to stipulate processes to ensure equity in access to that information. Similarly, the Article 37(c) of the UNCRC provides for protection of adoptee rights to communicate with birth parents post-placement in the manner subject to the rules of sending countries or children's individual wishes. The conclusion of Article 37(c) reads that 'every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence

and visits, save in exceptional circumstances'. The critical language in Articles 8 and 37 on information access serves two purposes. It is critical not only to the preservation of children's identity but also supports process transparency in the practices of sending countries pursuant to the Hague Convention. For adoptions involving countries such as Romania and Guatemala, whose adoption practices have been suspended due to global awareness of chronic process irregularities, the protection of children's identity interests supports the interests of sending countries whose children are most vulnerable to the threat of trafficking (Peerenboom, 2005). Therefore, in the area of identity interests, protection of children's interests may also serve the interests of sending countries but not receiving countries or families, who aim for TNA to be comparable to domestic adoptions. Reviewing the protection of children's identity interests across practice scales, I note that the UNCRC and the Hague both fail to indicate a universally consistent rule of law on information disclosure within TNA processes within national adherent policies.

Extending adoptee interests for 'identity preservation' also alters the perceived difference between international and domestic forms of the practice on local levels. Previously, the ability to trace adoptee origins was possible for domestic but not international adoptions. Until the 1980s, the birth records in the UK and the US were kept 'closed', in an effort to protect the privacy of the birth mother. The social stigma attached to pre-wedlock births and child illegitimacy was primary reason for keeping access to information that would permit identification of birth parents restricted. The secondary reasons for maintaining closure included the absence of detailed and consistent recordkeeping on any type of adoptions until the latter half of the 1980s (Melosh, 2002). Restricting access to birth records also had the effect of supporting the perception of receiving parents that 'closed' adoption processes were more secure and permanent than 'open' adoptions in which children had the right to maintain

access to birth parents at will (Melina and Roszia, 1998). As a result, the reduced possibility accessing traceable birth information for children adopted differentiated TNA from domestic adoptions.

The extent to which multinational law increased the 'openness' of TNA adoptions is not clear although that may be a cause for the recent downturn in the adoption of foreign born children, particularly by US families. Analysing the laws that maintain birth record secrecy, analyst D. Marianne Blair (2006) suggests that the UNCRC does not 'create an unequivocal right of disclosure for identifying information' because of the need to balance family privacy with children's rights to access identifying information. Blair notes that although Article 21 is one of the few areas in the UNCRC that stipulates adoption processes, mandatory disclosure of birth information is not an explicit right. While Article 7 provides for children's rights to a familial and national identity and Article 8 ensures the 'preservation of identity' in cases of 'illegal deprivation', neither article explicitly stipulates the application of this language to instances where children are adopted via either domestic or international processes. Blair argument implies that the international law fails mandate openness in TNA, suggesting the law impacts the two forms of adoption differently.

Blair's claim is based not only the fact that maintaining consistent policies of disclosure or recordkeeping across participant nations is impractical but also because the early UNCRC drafters did not accept provisions to maintain the confidentiality of birth information, claiming that privacy protections 'had no direct bearing on the rights of the child' (2000, p. 602). Given the absence of a clear mandate on information disclosure within TNA, supported by the lack of clarity in the language of the UNCRC and the varying interests and abilities of participant countries to support such a mandate, the extent to which TNA

equitably protects children's rights to identity across practice scales also comes under question. There is an absence of a universally normative rule of law around whether children's right to an identity impedes parents' individual nationally guaranteed rights to privacy.

While the UNCRC protects children from 'arbitrary or unlawful interference with his or her privacy, family, home or correspondence' (Art.16§1), multinational law and national adherent policies have extended greater protections for children's interests in a manner that, at some points, also supports the interests of sending nations. Although the rule of law on adoptee identity disclosure remains unclear, continual advances in tracing technologies Kerry O'Halloran (2006, 2009), legal historian and comparative adoption law analyst, suggests that the extension of a broad range of children's non-physical interests may require maintenance of legal connections between receiving family members, sending countries and biologically related birth families (O'Halloran, 2009). I argue that the continuation of interpersonal connections between receiving families and birth families in sending countries constitutes an alternative form of 'openness' in records that must be assessed as a component of future policymaking.

The extension of a broad range of interests to TNA child adoptees may not be the only cause for changes in the number of TNA placements by receiving countries such as the US. Based on changes in the practical and conceptual aspects of TNA, the downturn in TNA numbers may indicate that prospective parents are now considering alternative reproductive methods to TNA in order to avoid the substantial 'perceived hassles' that once primarily surrounded domestic adoption (Steltzner, 2004, p. 116). Although UNCRC standard presumes the primary intent of this family building practice is humanitarian, the definition of TNA is not uniform across all practice jurisdictions.

Taking this notion further, a key critique of Elizabeth Bartholet (1999a, 1999b), Bartholet and Hall (2007) and other adoption advocates is that the intensity of contract requirements have a corresponding effect on the level of child adoptions, even if primarily humanitarian in intent. Bartholet and others correlate the recent reduction in numbers of US TNA adoptions to the increased complexity and stringency of regulation brought on by the recent accession of the US into the Hague Convention. Speaking to this possible material impact of the law, Bartholet and Hall argue that contract regulation be amended to reduce regulation at the family level and sustain adoption levels and support the human rights of the global population of children (2007). The issues these analysts raise about Hague regulation of family building contracting raises further, and yet unanswerable, questions on the particular rights, responsibilities and obligations that parents have to execute aims of global justice within familial scales.

Yet, the UK and US legal history does evidence a possible relationship between Hague adherence, openness and reductions in the number of TNA family placements, particularly since many sending countries historically lacked the ability to keep records that complied with Hague stipulations. The larger question then is whether the extension of an ill-defined set of interests such as the range that pertains to children's identity has the effect of practically protecting the welfare of children, especially when that regulation impedes the interests of parents considering this family building option by undermining the perception of legal permanency under the law.

Mapping the Intent of TNA Law to Analyse Policy Efficacy

Legal efficacy is a criterion used almost exclusively in analyses of social and health policy impact and is not customarily applied to evaluations of humanitarian law, for which the legal aim is customarily the widened social recognition and protection of human rights interests across a diverse group of nations. Yet, the regulations required for modern intercountry child adoption processes are unlike other processes regulated under humanitarian law that pertain only to the protection of particular populations rather than the conduct of processes. While a main aim of the Hague is to protect the human welfare interests of the global child population, the law works through the regulation of contracted processes that are uniquely required for this modern family building form. Therefore, analysing the efficacy of Hague policy towards humanitarian aims is a legitimate, but neglected, approach to review TNA law that this section aims to undertake.

Since little research has been conducted on the actual efficacy of the multinational TNA law, I have initiated work in this area with material drawn the related studies of English family law theorist Michael Freeman (1984, 1985, 1992, 1992,1999, 2003), whose work on the combined notions of family justice, conflicts of law and jurisdictional variations in legal intent support a more detailed assessment of the Hague law. Within Freeman's extensive work on topics of international family law and children's law, he posits that the perceived intent of a family residence implies particular and measurable qualities on the relationship of the inhabitants. Freeman singles out the quality of duration in residence, differentiating between 'temporary' or 'indefinitely', as a key quality of family relationships. Here, he argues, the intention to reside for a particular length of time supports an evaluation of the permanence of the residence and family relationships create by law. Reviewing the weight placed on intention in determining the quality of relationships, Freeman insists that in evaluations of the range of qualities of family occupation 'much hinges in the leading cases on

“intention” and some thought must be given to this’ (2003, p. 375). Freeman’s work on the exercise of family interests in the home is analogous to evaluations of variations in the perceived intent of TNA across practice scales. In a comparative review of UK and US policies, I use Freeman’s emphasis on intent to evaluate the diversity in family building interests.

Freeman’s analysis is a review of the geographies of family law through an examination of the notion of scale-based intent. His approach to analysis is extremely useful for evaluating the efficacy of TNA regulation, especially since there is scant research within existing areas of legal geography that explicitly deals with international family building. To support an interrogation of the intent of TNA law across the various practice scales, I have also included approaches to legal analysis developed within several closely related studies. These include work the works of legal geographers Eve Darian-Smith (2000) on the exercise of national sovereignty through laws regulating communication and transportation technologies, Richard Ford’s (2000) review of specific social practices and political identities created through jurisdictional divisions and Patricia Ewick and Susan Silbey’s (2003) assessment of exclusions of justice within post-modern global exchanges. In addition, works by anthropologist Barbara Yngvesson (1993, 2002) on the social function of the law in protecting family legal interests also provide unique insight into topics of reproductive social justice. She argues that the family interests perpetuate particular, culturally approved social patterns. In concert, all of these themes support an innovative approach to analysis of the complex policies used to govern the TNA practice.

The divergence in the UK and US policies on adoption is not limited to the TNA practice but also an evident theme within other areas of social policy. One area of social family policy where evident differences in the positions of these

countries support a more thorough analysis of intercountry child placement is around transracial or mixed-race placements, where the race or ethnicity of a child is unlike that of the receiving family. A closer analysis of UK and US policy differences in position on the benefit of race-matching directly evidences differences analogous to those present within other adoption practices such as TNA. Therefore, I compare the race matching policies of the UK and US to evaluate differences in the perceived intent and scale of benefit for the practice of TNA. This section focuses most intently on differences in the national interpretation of the Hague Convention 'subsidiary' principle in evaluating national preferences for or against parent-child race matching within the early phases of the child selection process. At the conclusion of this US and UK policy review on transracial placements, I return to address the question of whether national interpretations of the overall intent for the TNA practice intent hinder the broader aims of the Hague Convention.

In sum, the UK and US interpretations of the Hague's 'subsidiary provision' differ because the UK presumes a more literal reading of the legal intent on the geographic scale of responsibility for children's welfare than the US. I first review the key language of the 'subsidiary' principle. The 2008 *Outline of the Hague Convention* paraphrased the 'subsidiary principle', initially contained in Article 17 of the full text, as the criterion to be used in determining the eligibility of a child for family placement. This provision supports the verification of a child's adoptability (i.e. 'orphan' status or that the biological parents have relinquished permanent custody rights) as per Art. 4 of the Hague. The Art. 4(c) of the *Outline* re-states the intention of Art. 17, of the Convention as that

'Subsidiarity' in the Convention means that Contracting States recognise that a child should be raised by his or her birth family or extended family whenever possible. If that is not possible or practicable, other forms of permanent care in the country of origin

should be considered. Only after due consideration has been given to national solutions should intercountry adoption be considered, and then only if it is in the child's best interests. As a general rule, institutional care should be considered as a last resort for a child in need of a family.

In summary, the intent of the 'subsidiary' provision is to set priorities for child placement decisions that relate to children's location of origin. Under this principle, authorities must exhaust social welfare options in the child's country of origin before those available in foreign countries. While the Hague does not provide an explicit definition for the terms 'possible' or 'practicable', it does state that family-based care is preferred over state-run or institutionalized care. Yet, this stipulation practically means that intercountry adoption becomes a preferred method of care for children residing countries where family care is inadequate and institutional options (whether inadequate in quality or not) are the primary means of child care.

Differences in the UK and US Policy Histories on Child Placement Protocols

The number of ethnic minority prospective parents has historically been less than number of ethnic minority of children routinely available for adoption. This chronic imbalance has forced nations such as the UK and the US to devise policies on transracial placement to avoid incurring the cost of having children remain in state funded care systems for an extended time. In reality, foreign-born children who receive placement with UK and the US parents draw from a similar pool of available families as domestic adoptions. Additionally, many TNA placements fit the definition of transracial or transethnic although the

difference in the location of the children's origin is emphasized over the disparity in the cultural or racial background of the family members¹².

The term 'transracial' has a virtually identical meaning in both the UK and the US (BAAF, 2006; NAIM, 2006; Donaldson, 2007). Transracial placements describe the difference in the race or ethnicity of the receiving parents and the child adoptees. Overall, the UK and US policies differ on the extent to which they will support or deter this child placement option. The UK policy favours race-matching over 'race-blind' placement, whereas the US policy discourages race-matching and actively promotes 'race blind' placements. Evaluating policies on transracial placement pursuant to the terms of the UNCRC and the Hague laws raises questions about the different national interpretations about the Hague 'subsidiary' principle.

As an expression of the Hague's subsidiary principle, UK policy is a stricter interpretation of the provision that the options for care in children's country of origin must be exhausted prior to any adoption of a foreign born child by a UK receiving family. Extended further, another implication of this position is that the UK emphasizes the UNCRC protections for children's cultural interests, which foster adoptee connections with their cultures of origin. The UK case law precedent supports the position that children's cultural interests are on par with, or potentially more valuable than, their interests to physical or emotional care alone. In court cases where the material well-being of the child in the sending country is deemed suitable, the UK court has ruled in favour of child placement that maintains the cultural ties of adoptees to their location of origin over the supposed material benefit to children placed with a foreign family. For

¹² To qualify this statement, some parents are forced to adopt children from abroad for failure to meet the qualifications to adopt children domestically due to their age, marital status, or other considerations (Merrill, 1998).

example, in *Re M (Child's Upbringing)* [1996] 2FLR 441, *Re B (Adoption: Child's Welfare)* [1995] 1FLR 895, the UK appellate court ruled that preservation of a child's cultural identity was sufficient grounds to order the return of a South African child to his parents after adoption by a UK family. In the final opinion, the court stated that TNA is 'a practice intended for children who are unable to find suitable homes in their country of origin, the preferred area of placement, in an aim to support effective national social policy development' of the sending country (Bonhuys, 2006, p. 25-30). In a similar manner, the UK policy on transracial placements in domestic adoptions also restricts the adoption of children by parents of another race in favour of same race placements. This policy was upheld in policy statements such as *Adoption: The Future* (Cmnd 2288, HMSO, London, 1993, para 4.32) that held that the racial identity of the child should always be a component of agency decision making and cases such as *Re P ((A minor)(Adoption))* [1990] 1FLR 96, *Re JK (Adoption: Transracial Placement)* [1991] 2FLR 340, *et. al.*). Both measures have been critical to the local UK council authority 'best practices' for social worker placement decision making (Kensington and Chelsea, 2007).

In contrast, the US policy on race matching favours 'race-blind' child placements in all adoptions. This position on transracial placement implies that the US interprets childrens' identity interests in a different way. The US policy governing interracial child placements is the *Multi-Ethnic Placement Act of 1994* (or 'MEPA', *As Amended by the Interethnic Adoption Provisions of 1996*). This measure set the current US policy that favours 'race-blind' placements. This measure reversed a precedent set in 1972 after publication of a report by the National Association of Black Social Workers report entitled *Position Statement on Transracial Adoption*. In the 1972 review, a group of Black social work professionals objected to race-based placement norms in the placement of adopted or fostered children. They made a 'vehement stand against the

placement of black children in white homes for any reason' because they deemed transracial child placements to be culturally 'unnatural', 'artificial' and generally 'unnecessary' (Donaldson, 2008).

The ensuing 1994 MEPA overturned the 'race-based' placement protocol, the standing UK policy, for all US adoptions. While this policy was primarily intended to affect domestic adoption practices, this stipulation was not explicitly mandated for international adoptions. During the debate over child matching protocol, several arguments were voiced in favour of the MEPA. One of the most compelling points was that denial of child placement with a family on the grounds of racial difference violated the United States Constitution and Title VI of the *Civil Rights Act of 1964* (Pub.L. 88-352, 78 Stat. 241, enacted July 2, 1964). This policy shift was prompted by evidence that same-race requirements resulted in 'persistent increases in the number of children within the child protective system waiting for, but often not being placed in, adoptive families' (Hollingsworth, 2008, p. 378). The policies that followed included the *Removal of Barriers to Interethnic Adoption* (IEP) in 1996, which aimed to support a reversal in the perceived discrimination in denying minority families from access to available children (Hollingsworth, 2003). An underlying factor supporting the implementation of the MEPA was the US interest in reducing the costs required to support fostered children in long-term care and in encouraging the permanent adoption of looked-after children, much like alternative UK policy efforts. Therefore, both the added costs for maintaining domestic looked after children as well as the possible Constitutional violations to the rights of parents and children created by placement failure both supported the US shift towards race-blind placements. In comparison to the UK position on race matching, the US position suggests an interpretation of children's rights that prioritizes children's material interests over their psychological interests that pertain to maintenance of their

family and cultural identity and with their location of origin, as extended in the UNCRC standard.

At present, the race-matching policies of the UK and the US are oppositional. This situation corresponds with national differences in beliefs around the identity interests granted to children through the UNCRC and the interpretation of Hague Article 17 'subsidiary principle'. Although national variations in placement policies do not regulate the contract rights of prospective parents directly, the UK and US domestic adoption policies have an impact on global TNA patterns. As this comparison suggested, national policies may have the unintended effect of restricting parental access or preventing the immigration of children to the UK while incentivizing adoptions to parents residing in the US instead. In the end, the UK and the US policies effectively prioritized the range of children's interests in different ways. A possible reason for the difference in priorities may be the divergence in cultural values, variations in the acceptable level of social welfare burden and the expenses associated with the support of domestically born needy children. Added into this are considerations that the adjudication and prioritization of children's interests may result in practice inequities, which I will consider in greater detail at the conclusion of this section's interrogation of the contribution of children's interests to the perpetuation of the 'the rights regime' method of governance (Sunstein, 1990, 1994).

Equating TNA Family Building and Human Rights Contracting

In addition to the changes in TNA global patterns caused by national policies on protected children's interests, the receiving countries' policies on family building contracting are equally impactful on practice trends. The

difference in the UK and US national parameters around family building contracting are substantial. In each country's case, national interpretations of TNA law support broader social policy positions pertaining to family activities. One of the activities governed by family social policy includes the regulation of family building contracting. In the second component of my comparison of UK and US national interpretations of the law, I analyse variations in the primary intent assigned to the TNA practice by each. This review furthers the comparison of family building policies on the national level and initiates an examination of the competition of interests between parties to this complex process of family building that I argue the regulation fails to address.

The extent to which national sovereignty interests contribute to or detract from the efficacy of TNA regulation has received little attention by legal analysts, although these interests pervade the history of the UK and US accession into the Hague. In particular, the late US accession to the Hague (in April 1, 2008) has resulted charges of resistance to entry. The UK-based critics of delay in US accession, such as Baroness Nicholson (2006), Blair and others, commonly argue that the US resistance to participation in multinational agreements is an effort to maintain national sovereignty that undermines the globally minded aims of the Hague and subverts the welfare of children who are not protected by these weakened measures. Seen another way, some of the criticisms issued against the US entrain with theories of legal pluralism, as articulated by Boaventura de Sousa Santos (1989). Santos, assuming that national participation in multinational humanitarian and private legal regimes is mandatory rather than optional, claims that any national resistance to global regimes lacks long-term usefulness and may constitute an undervalued reproduction of old hierarchies that reinforce damaging inequities (Santos, 2006a, 2006b). As acknowledged by Alston and MacDonald (2008), even presumably beneficial humanitarian aims

can legitimate interventionism by multinational bodies into local spheres of governance.

Informing this debate, US commentators on Hague entry, such as US legal analyst Barbara Stark (2006), detail several reasons for the delay in the US entry into the Hague that inform a more enriched evaluation of national interests within the interpretation of international family policy. Based on a review of the Congressional debate about the merits of entering the Hague held just before accession, Stark asserted that the US delay in entry resulted from a failure in law on both the national and the international levels. Stark's opinion follows along with an interpretation of US accession offered in a testimony by US Rep. William Delahunt in Congressional Hearings on the need to protect US national interests within applications of multinational law (*Hague Convention On International Adoptions: Status and the Framework For Implementation*, 109th, 2nd Session, Nov. 14, 2006; Serial No. 109-24). On one hand, she asserts that US participation in multinational accords, such as the Hague Convention, pose a threat to national traditions of and protections for individual civil liberties, guaranteed under the US Constitution. She critiques the isolationist US approach to jurisprudence and the US failure to set normative parameters around its national interests when signing onto humanitarian law. On the other hand, Stark also maintains international private law is deficient in its ability to comprehensively protect the interests of all parties across multiple scales. She questions the adequacy of international private law to support the negotiation cross border custody disputes in particular, based on the absence of established legal norms for cross-border activities aimed at family reproduction.

Going further, Stark makes a broader comment on the challenge inherent in regulating local practices and amending national interests through measures aimed at supporting the welfare global populations. Stark affirms that

multinational law, such as the Hague Convention and the UNCRC, 'articulates the rough global consensus regarding that which is owed to the most vulnerable' (2006, p. 406). Therefore, she concludes that the US 'reluctance to ratify the human rights instruments reflects, in part, our continuing resistance to the idea that the vulnerable have a claim against society in general. This is grounding, in part, in our sometimes exaggerated deference to freedom of contract and autonomy' (p. 407). In this, Stark suggests that the US approach to TNA is based on political cultural traditions that presume that this form of family building is constituted by contractual as well as humanitarian engagements. The conflict created by the combination of social policy and humanitarian policy intent within the responses to accession by the UK and the US speaks to the possible need for the Hague to introduce global norms for family building contracting.

Assessing Changes to the Regulation of Reproductive Contracting Brought about by the Hague

In this section, I evaluate changes in the critical area of contract regulations as a necessary placement processes. Based on the practice evidence I have presented in the previous sections, I believe that the current TNA practice is partially de-regulated. That is, national policies such as those of the UK and US largely control what types of contracts families can make around family building, but only contracts that can be construed as supporting the multinational objectives are defensible under the laws of any jurisdiction. In my review of the legal arguments around reproductive contract regulation, I explore alternative notions of reproductive governance that revolve around amendments to TNA contracting. The approaches to amend contract regulation that I consider here, address the apparent conflicts in the interests of various TNA practice parties that I believe are hindering regulatory efficacy overall.

The most divergent approach to partial reproductive is the proposal for a completely deregulated reproductive service market offered by a group of legal economists that most prominently include Elizabeth Landes, Richard Posner (1978) and Richard Epstein (1995). These theorists have collectively argued for a reduction in contract limitations for family building practice. Their belief is that a reproductive 'free-market' would better serve the interests of prospective parents than either partial or full regulation of reproductive contracting across all processes. Detailing a critical component of the overall approach, Posner and Landes (1978) posit that a de-regulation of reproductive service contacting would equalize parental access to available children among populations. They suggest that governmental support of parental contracting on the individual level would enable a beneficial proliferation of contracting in family development practices that are more transparent, enforceable and relatively standardized across practice scales. Extending this further, Richard Epstein (1995) suggests a broader acknowledgement and protection for the global contracting capacity of receiving families. As a precursor to this, Epstein implies the need for a corresponding decrease in national policy control and an increase in reproductive contract fulfilment, which are now enforced under universal standards that are comparable to child welfare law. He posits that this dual support of individual reproductive contracting would cause a reduction in adoption costs, widen the pool of available children, improve the speed and efficiency of TNA placements as well as increase process cost transparencies. Although complete de-regulation is highly unlikely to receive the endorsement of humanitarian supporters who would view de-regulation as a reversal of the human rights gains achieved in the multinational accords, there is merit to this approach. This alternative is considerable departure from the current method of governance. Yet, the emphasis on contract openness is a merit able approach to support increased process transparency which may ultimately protect individual families, and thus

children, from fraudulent overcharging or non-delivery that may deter adoptions altogether.

In difference to Landes, Posner and Epstein's argument for complete deregulation, microeconomists Gary Becker and Kevin Murphy (1988) and Gary Becker, Richard Posner and Kevin Murphy (1991) propose a variation of partial regulation that emphasizes process efficiency more directly than the current method of governance. In critical difference to Landes et al., Becker and Murphy set forth an understanding of family building process efficiency that prominently includes the service of social 'justice' for children and parents (Becker and Murphy, 1988, p. 17-8). Based on their understanding of family economic behaviour around reproductive expenditures, Becker et al. hold that some contract regulation is required, primarily to ensure that parents have equitable access to contracting across the various scales of this global practice. For Becker, social benefit is an indispensable and additional quality of any reproductive regulation. In addition to supporting children's welfare, they also aim for regulations that 'improves the efficiency of family activities', based on the understanding that parents who have both the interest and the economic means will support greater efficiency in the social welfare system. Becker argues that regulation of families can increase the efficiency and ensure the justice in access to family development activities in a manner that supports the aims of the current law. This variation on the current partial regulation of the TNA practice, is echoed in the findings of Hansen and Pollack (2008), who acknowledge the necessity of ensuring a balance in national and family economic trade-offs.

Although brief, this exploration of alternatives to the current governance of TNA revolves around changes in the regulation of reproductive contracting. This approach to review of the current method of protocol standardization under the Hague may appear to counter the prevailing perception among humanitarian

proponents or children's rights activities that TNA is solely humanitarian. Yet, the current practice realities indicate that national variations in contract allowances may influence family access to TNA on a case-by-case level. The absence of contract protections for global family level reproductive contracting may ultimately result in fulfilment of the UNCRC child protection aims as well as create a situation in which receiving families fail to receive adequate contract protection to prevent child welfare crimes. As an alternative to the current method of partial regulation, microeconomic theorists such as Becker, et al. propose an alternative method of partial contract regulation that is more viable, at least initially, than the suggestion of complete de-regulation offered by Posner and Landes (1978). The particular benefit of the microeconomists' proposal is the explicit inclusion of notions of equitable access to family building conveyed by the UNCRC standards to support Hague aims of contract protection and extension of nationally granted individual civil liberties interests and implied family privacy rights.

Reviewing a Case Study of TNA Contracting Regulation: Controlling Parental Access to Required Technologies

The UK and US disputes over TNA around the well-publicised cases such as the *Kilshaw v. Allen* (2001) ruling, involved a combination of practice elements now regarded to be characteristic of modern reproduction. The case included a elements of transracial child placement, technologically enabled reproduction and culturally acceptable limits to family building contracts. Most importantly, the UK and US national policy responses to the judicial ruling, referred to as the 'internet twins' within the UK media, resulted in national policy changes around reproductive contracting that uses internet technologies. I believe this case exposes several elements within TNA that must be addressed through a more

detailed consideration of alternative approaches to the current method of family building regulation.

The *Kilshaw v. Allen* international court dispute of 2001 was one of the most celebrated examples of national divergences in the interpretation of TNA multinational law. The ruling contributed to a curtailment of UK parents' access to TNA. In this case, the Kilshaws' were prohibited from completing child placement through an 'internet adoption' process, a term coined by the UK media to describe the method of child selection. This case resulted from a dispute between a Welsh and a Californian couple who contracted for the adoption of a single set of African American twins. The Welsh Kilshaw couple paid £6,000 to an internet-based adoption agency to adopt the twins through Arkansas state courts, due to the leniency of the adoption laws in that US state. The court denied custody to the Kilshaws, who sued for breach of contract to the agency for accepting a higher bid for the twins from the Californian Allen couple. In their appeal, Kilshaws were denied custody on the grounds that the Internet was an inappropriate medium for family building. Looking at elements of the case that pertain to family building contracts, the Kilshaw ruling altered access to TNA by restricting parents from contracting for this family building method in two main ways. First, the Kilshaw ruling changed an existing UK policy that permitted use of the Internet technology in child adoptions. The court permitted use of the Internet for the adoption of domestic UK children but not the adoption of foreign-born children by UK parents. Second, the UK in the *Adoption-A White Paper* of 2001, restricted all foreign adoptions by explicitly prohibiting adoption contracting through private agencies. The state ruled that the goal of adoption is primarily to find suitable homes for needy children rather than support the desires of parents, in support of the UNCRC standard.

To review the differences in UK and US positions on TNA that revolve around contracting allowances, the UK regulates both required technologies as well as contract parameters, which resulted in a restriction on parents' access to this practice. As the US policy interpretation indicates, contract restrictions constitute an infringement of individual contracting rights and civil liberties protected under the US Constitution. The current TNA governance fails to regulate national policies on the use of reproductive technologies or provide explicit contracting interests to parents other than those conveyed through individual civil liberties. One conclusion that can be drawn from this comparison is that the national and international intents for TNA governance differ in ways that generate inequities in parental access to TNA within receiving countries. This may constitute a hindrance, particularly given the absence of clarity around the weighting of children's interests between physical and cultural types. I maintain that the evidence presented here suggests that the impact of national policy variations generates material differences in access equity across adherent receiving countries and in particular process areas such as contract regulation.

Analysing the TNA Policy Efficacy Created by a Children's Rights Regime

In the previous section, I analysed several instances in which the divergence of receiving country interpretations generated a conflict of laws across TNA practice jurisdictions. This lateral conflict between receiving countries is, I argue, only the first of two areas in which I found evidence of conflicts created by the current method of practice governance. The second area in which, I believe, the TNA law generates conflict is between the interests of child adoptees and those of the parents in receiving families. I argue that the

manner in which the current regulation extends the rights of children within the family building practice of TNA thwarts the overall humanitarian aims of the practice and the specific standards of UNCRC to protect a range of children's welfare interests. The current method of extending children's interests, especially given the fact that most children placed through TNA lack the maturity to exercise those interests without state intervention, constitutes a restriction on the individual civil liberties interests of receiving parents and families. I further claim that the extension of a broad range of interests to children through the UNCRC entered children into to a humanitarian 'rights regime', as theorized by critical legal theorist Cass Sunstein (1997). Yet, on the other hand, TNA receiving families have not been granted a corresponding set of interests for family privacy, the right to have a family or to reproduce. I argue that in the particular case of TNA, the universalization of children's rights had the unintended effect of inequitably protecting the rights conveyed to parents and children. Since the UNCRC and Hague dictate that children's explicitly conveyed rights are 'primary' within TNA, I argue that the implied rights granted to parents are weaker although equally essential for TNA placements.

A review of the interests conveyed to UK and US parents' evidences this conflict and potential inequity. In sum, families have been designated, under the Hague 'subsidiary provision' as the preferred locus of care for children. Yet, the reproductive freedoms and civil liberties of parents required for protecting family building are not uniform across receiving countries nor are the explicit rights to create a family granted equal within receiving nations. The UK and US rights to privacy and family building vary. In the US, family privacy is protected the US Constitution, 14th Amendment Equal Protection Clause that prohibits state denial or infringement of a range of individual personal liberties that are commensurate to those extended to children within the UNCRC. Pursuant to the 14th Amendment, the US explicitly protects citizens from state intervention in

certain matters relating to family building, reproduction and sexual relations. Several US Supreme Court rulings now stand to protect of US citizen's privacy interests in the home (*Stanley v Georgia*, 1969), within marital relationships (*Griswold v Connecticut*, 1965), of decision making freedoms for both married and single women to use birth control (*Griswold v Connecticut*; *Eisenstadt v Baird*, 1972) and a women's right to terminate a pregnancy (*Roe v Wade*, 1973; *Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992). Reading across these various measures, US parents still have not been explicitly granted, through legislative measures, for the right to reproduce or complete freedom from state regulation of reproductive decision making.

In contrast, privacy regulation in the UK remains relatively immature and is an ill-defined area of law, largely informed by culturally implied norms and common law traditions rather than explicit rules of law. The clearest articulation of privacy protections pertaining to reproduction and family building in the UK is the 1998 *Human Rights Act*. This measure protected a range of individual interests for privacy protection and is not exclusive to family building. The 1998 *Act* was developed in adherence to Article 8 of the *European Convention on Human Rights* (ECHR). The most pertinent language within this measure provides only that states 'respect' for 'private and family life' (ECHR, Art. 8 §1). Although the 1998 *Act* has been applied to decide court cases in the 2000s involving individual violations of privacy from potentially damaging intrusions by the media, the protections afforded by this measure have not been applied to decide cases of family privacy violations.

In comparison, the US protections for family privacy, individual civil liberties and reproductive choice are generally more explicit than those granted to UK citizens. The US case law precedents consistently increase family rights in a more comprehensive manner than evidenced in a review of the UK legal

history of privacy protections. I suggest here that the difference in the strength of privacy protections granted to UK and US parents supports the argument that dissimilarities in the interests of receiving parent populations is inequitable. My argument presumes the centrality of the family within the TNA process. Yet, I believe the necessity of protecting parental interests is also indirectly supported under Art.29§1c of the UNCRC . In Art.29§1c of the CRC, the UN specifically requires that child education includes the ‘development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; the country from which he or she may originate, and for civilizations different from his or her own’. This right implies the legal recognition of an individual identity for children’s that is separate and distinct from the identity of their primary caregivers. Yet, children’s interests are literally dependent upon families for the protection of their welfare in a way that mandates some interdependence between the rights of the child and the parents.

As a premise to my interrogation of the inequity produced by the children’s rights regime within TNA receiving families, I challenge views furthered by a range of commentators such as Rhonda Calloway (2009), Steiner and Alston (2000), children’s geographers (Aitken, 2001; Aitken et al, 2007 and others). These proponents of human rights regimes generally argue that rights regimes are necessary to further humanitarian-based notions of justice, although not always uniform, and to offer a means of redress to populations that have traditionally been denied fundamental rights. In difference with supporters of the current law, I champion the conception of rights and a review of parent and children’s interests as a regime of interests among competing parties, as developed by Cass Sunstein. Sunstein’s theories respond to a statement published within a 1999 U.S. State Department Human Rights report that described the developments in human rights law as an ‘overlooked “third

globalization''' and the 'rise of transnational human rights networks' (2000). Sunstein's notion of a rights regime suggests a means through which to evaluate inequities that may develop among TNA parties and against the overall aims of global social welfare law.

In alignment with Sunstein in some respects, UK legal scholar Vanessa Pupavac (2001) notes the potential inequity of furthering children's rights without fully considering the contradictions that the universalization of rights for particular population may cause in the practical regulation of processes. In her theories on a partially regulated market of disparately interested parties, Vanessa Pupavac concludes that the children's rights regime may not be a panacea for child welfare at all. Instead, she asserts that the continued extension of the regime into all areas involving children may result in a re-victimization and possible ghettoization of children into a needy 'psycho-social' global class (2001). In particular, Pupavac's depiction draws out the notion that the rights regime for children creates inequity by externally depicting the category of children and their presumed interests differently than the interests and intents of parents, although the two sets of interests and intents are, in fact, interdependent.

This view of interdependence between the interests of children's and their receiving families aligns with recent arguments furthered by Bartholet and Hall (2007) and other adoption advocates who have critiqued the extent to which the Hague regulation curtails the rights of parents engaging in family development. They argue that protecting parental contracting abilities and rights is a means to further the humanitarian intent of the law. They imply that amendment to the current regulation, i.e. a children's rights regime, is required to maintain parental access to TNA in the future while still supporting children's welfare interests.

A critical exploration within Sunstein's work is the possibility of regulating a free market system with the intent to further social justice. In developing practical family building regulations, Sunstein takes an approach that more closely sides with Becker's (1984) moderate vision for partial regulation than Landes and Posner's (1978) more extreme suggestion of complete de-regulation. Explaining his position, Sunstein affirms Becker's idea that avoiding regulation completely is implausible but based on different reasons. In difference from Becker, however, Sunstein accepts the culpability of the law in failing to ensure global uniformity and almost champions the ability of the law to generate unintended and disparate impacts across parties. Furthering this point, Sunstein raises several points that speak to the related idea of humanitarian legal efficacy. He argues that many social practices, including those regulated by law, will inevitably affect individual preferences within various arenas. He states

there is no way for a legal system to remain neutral with respect to preference formation. In these circumstances, it is fully legitimate for government and law to try to shape preferences in the right way, not only through education, but also (for example) through laws forbidding racial discrimination, environmental degradation, and sexual harassment, and through efforts to encourage attention to public issues and to diverse points of view' (1997, p. 53-5).

This notion of efficacy within a rights regime system of governance implies that the competition of rights will ultimately produce social beneficial results, in a legal rendering of Cindy Katz's theories on social production (2004). The perceived social benefits of a rights regime, suggested in Sunstein's comment, connotes the transformative capacity of rights extensions. It implies the imposition of a particular, possibly uniquely held, democratic understanding of social betterment that is not actually universal in assumed meaning (Gould, 2004). Yet, the most important point – and practically challenging, in my view – within Sunstein's work is his idea that rights regimes are more beneficial with a less literal or a looser interpretation of the rights themselves. Clarifying this, he

states that 'society should be concerned not simply and not entirely with satisfying the preferences that people already have, but more broadly with providing freedoms in the process of preference-formation' (1997, p. 5). Not only does this scenario of less strict rights imply ongoing political negotiation of terms but also may, beneficially, support a realistic interpretation of children's inability in many instances to exercise the rights granted to them through the UNCRC.

Taken further, Sunstein's tacit acceptance of a degree of contention in the extension of rights is similar to what is contained in reviews of the TNA governance stated by humanitarian rights policy analyst Philip Alston (2005). Alston supports the Hague Convention is an efficacious method of extending the interests of children. In support of his view, he asserts that 'many of the challenges which children's rights proponents will face will be a consequence of the relative success of their agenda to date. Increased government resistance to the scrutiny applied by the Committee on the Rights of the Child, is in many respects an indication that the practice is starting to bite in the ways that it should' (2005, p. 8). Yet, as indicated in the UK and US examples, the interpretation of children's interests are not regulated and can be read very literally, as in the UK interpretation of Article 8 and 37 protections for children's identity interests. In such instances, the rights of children must be met with a corresponding understanding of the rights to family that is not assured within the current configuration of the law.

Sunstein's notion of a rights regime integrates the dual concept of rights extensions and free market systems of exchange that, in my view poses several practical obstacles to implementation. Although his view is an alternative articulation of the UN vision for the measure to enable 'globalized exchange', Sunstein's understanding of rights regime is static in my view, in some respects. I maintain that one of the primary challenges for multinational law is equitable

allocation of interests across parties with dissimilar cultural interpretations of the practice intent, uneven levels of access to required technologies and differing social welfare structure. Yet, Sunstein's notion of rights seems to me to be rather idealized and his premise demands that members of the culture value the democratic process of rights negotiation similarly. Additionally, his conceptualization of rights exchanges presumes an equity among rights bearing parties that does not exist amongst the global parties to the TNA process and, therefore, family building cannot be fairly regulated through a rights regime system of governance. My analysis showed that children's rights are 'primary' and universalized across all jurisdictional levels, but national protections for individual privacy are weaker, meaning that parental rights either are implied or conferred on the national and not the international scale. The varying strength of those protections leads me to conclude that the parties within the reproductive rights regime are not, in fact, equal.

Mapping the Legal Geography of TNA by Variations in Interests and Intents Across Practice Scales

The humanitarian intent of the TNA practice, i.e. to protect the welfare of a particular global category of immigrant children, coexists with other presumed practice intents that originate on local or national scales. Other intents for TNA include human reproduction, acquisition of testate heirs, the exercise of individual freedoms and civil liberties, children's rights proponents and the exercise of rights to contract. The notion that the intent of the law differs across scales is an element in the study of TNA legal geographies, which differs from most legal analyses of TNA that fail to interrogate the presumed intent of family building intent for any particular reproductive method. The most proximate studies have included UK legal scholar Michael Freeman's (1985) exploration of

the potency of legal intent in generating scale specific understandings of family interests and the regulation of family practices. Freeman found that the perceived relationship between an individual and a critical place, such as a 'domicile', changes that individual's relationship to the law. He also maintains that 'the emphasis on intention is ostensibly a way of focusing on the individual rather than the space of the domicile itself' (1999). Drawing on Freeman's studies of intent within UK family law, I look at new ways to read the operation of the Hague across practice scales. Applied to TNA, Freeman's approach provides a means to analyse variations in the interpretation of the governing laws that arise from divergent presumptions of the primary intent of this complex family development practice.

Freeman notes that legal intent can be interpreted singularly. Most critically, Freeman asserts that 'relationship allows a person to change the law governing his personal situation by his or her own private act. It is an individualistic and liberal system ... But intention can only be inferred from the outside' (2003, p. 376). I understand Freeman to assert here that multiple intents exist concurrently for the TNA practice. Yet, supporters of the multinational law presume only a global, humanitarian intent for TNA that may disadvantage parties on national or local levels that hold alternative views on the main intent of the practice. I believe that in order to conclude that the global intent is sole requires that the interests of children are equitable to that of adults or that satisfaction of humanitarian legal aims takes priority over the aims of any other law that governs discreet practice aspects. Based on a comparison of family and children's interests within TNA, I argue that only some of the myriad intents for the practice law are currently articulated and satisfied. As a result, I believe that regulations may fail to support fulfilment of some practice intents that are deemed outside of the regulatory jurisdiction of the Hague.

The cause for the Hague failure to address practice intents aside from those defined within humanitarian law is unclear, although several theorists suggest reasons that relate to a characteristic of global law that presume singularity of practice intent. This group of theorists purport that the intent of global TNA and a key quality of rights regimes is to encapsulate intent in a single interpretive variation – whether national, humanitarian, clinical or historical. For example, Vanessa Pupavac (2001, 2006) theorizes that this characteristic of humanitarian law may be detrimental to its overall aims. Applying her theory to this study of TNA, I suggest there is a competition in TNA law between children’s rights and the protection of individual freedoms, family integrity and national sovereignty. In an alternative manner, Boaventura de Sousa Santos (1991) criticizes the hegemonic qualities of the current humanitarian law. Santos maintains that humanitarian law is created through closed ‘interpretive communities’ that presume a particular legal intent (1991, p. 105). The parties in charge of interpretation of the law then enforce their understanding of practice and legal intent in the creation of ‘monopolies of interpretation’ (1991, p. 105). Santos suggests here that the imposition of a globally mandated legal intent can unintentionally have a detrimental effect on the population that the law aims to protect.

Lastly, US legal anthropologist Susan Silbey (1996) has expressed concern in various writings that global humanitarian law, such as children’s rights, reproduces historical hegemonies of governance. Taking an approach that varies from Santos’ understanding of the global social justice governance, Silbey maintains that perceived scales upon which complex practices are often compressed. She describes the threat this poses by arguing that

globalization as a kind of colonial domination may overstate the case. It seems to overlook the amount of variation and invention in the local uses of what otherwise might appear to be uniform products. These local practices have the capacity to transform what might superficially

seem like cultural imperialism into expressions of individual identity, local innovation, and possibly cultural and political resistance' (1996, p. 266).

Speaking about this tendency in detail, Sibley objects to the appropriation culturally-approved humanitarian values to the intent of multinational legal instruments. She posits that cultural approval furthers aims that are more limited than those originally provided for within the law. Sibley raises this point by questioning 'the consequences of marketing specific legal devices as if they were one of those dresses that fit all sizes. I am worried about how local justice can be achieved within a supposedly universal, all-purpose, one-size-fits all law' (p. 266). Sibley's comments point to a less obvious deficiency in the current regulatory method for TNA. Her points suggest that the extension of children's rights within TNA family building regulation may unwittingly reproduce inequity under different regime, i.e. one directed by children's rights. As an alternative to Silbey's (1996), Silbey and Ewick (2000) and Ewick and Silbey's (2003) claim that global interpretive hegemonies are relatively fixed, Freeman suggests, in an oppositional manner, that shifts in globally mandated legal intents can be normalized with legislation. Freeman's belief in the self-corrective quality of global law, may mean that the recognition of interests that pertain to the construction of home and kinship of receiving families may provide an avenue for addressing inequities or injustice created by a rights regime.

At the core, my argument rests on the ability for the multiple interests and intents originating from several practice scales to coexist within a framework of governance. This is a more nuanced and realistic measure of efficacy than a strict assignment of a singular intent across scales. Santos (1991), writing on the underrepresentation of international labourers within global political systems, advocates a notion within legal pluralism that involves increases in the tolerance of multiple coexisting intents under multinational law. He argues that including

a wider spectrum of varied local interests within global legal regimes and systems of governance is one of the only methods to ensure equity for disenfranchised populations to receive equitable treatment within international jurisdictions of law.

Granted, determining the legal intent for TNA demands consideration of multiple, different interest bearing parties who contribute to this multi-scaled practice. To this point, national policy positions on TNA demand the dual consideration for the newly extended interests of children and for the maintenance of traditional cultural values. In each case, nations must arrive at a position that satisfies multiple needs, both those that are current as well as the anticipated future needs of the 'group *in situ*' as resolved by the Pew Commission on Children in Foster Care (2004). As Piccolo and Thomas argue, social planning is necessary for the construction of what they term 'a particular kind of multicultural society' (1998, p. 2001). In a related notion to Santos', the Pew Commission asserted the beneficial contribution of planning to the formation of a genuinely pluralistic society.

Assumptions of global humanitarian intent such as child welfare or civic diversity, however, often involve literal costs. Along with emotional and political aspects of national interests, having children reliant on state care for extensive periods is costly. Adoption policy analysts, Hansen and Pollack (2008) maintain that the satisfaction of both nationally as well as internationally based interests requires necessary policy trade-offs between scales. As Hansen and Pollack not

trade-offs make the problem of formulating adoption policy an economic problem, in the most basic sense of the word *economic*. Economics is the study of the allocation of our limited resources between alternate uses that we value. The problem in adoption policy is economic because we have only limited resources for child welfare

services—including the protection of children, the provision of temporary foster care, and the regulation and promotion of adoption (2008, p. 369).

Their description of adoption policy pertains not only to the differences between the decisions of sending and receiving countries but also between receiving countries who view TNA differently, have differing methods of cost assessments and opt to respond to potential costs in divergent ways. Thus, the extension of rights is not a cost free process in adoption but requires the state or the parents to bear the burden of the regime. In contrast with Sunstein's general depiction of an equal extension of multiple interests, I maintain that the interests are allocated to the TNA parties disproportionately. In turn, this may contribute to inequity in policy impact, failing the development of more nuanced criteria of policy review.

Sunstein's approach to evolving the understanding of rights, fundamentally, responds to practical considerations for the rights of other interested parties to the TNA adoption practice. His concern for practicality, although not a primary aim of his approach, is shared by policy makers who also must be attentive to the concerted protection of diverse, and often opposing, interests but with the aim of ensuring an equitable execution of the law. In a statement that supports the extension of interests to more TNA parties, international family law solicitor at the International Family Law Group and UK petitioner to the Hague on issues of child abduction, Carolyn Usher has called for a shift in the responsibility of parties towards satisfaction of the Hague aims. In her view, the main aims of the adherent UK *Children's Act of 2002* was not only compliance with Hague provisions but also an increase in the pool of potential UK adopters as well as a regulation of state authority. Usher was quoted, in a 2003 by LexisNexis Butterworth's News, as recommending that 'a wider range of people must also be consulted now, not just the parents as in the past, but also other members of the birth parents' families, and the adopters themselves.' Her

statement brings out the frequently unacknowledged fact that local and national state authorities have great interpretive license, and also have a responsibility to protect the interests of parties beyond those of the child adoptees alone. In support of my overall argument about the deficiency in the current law, Usher implies that the protection of parental interests is required for continuation of or expansion in the practice itself, even if the interests of children remain primary.

In addressing the interests of parental parties to the TNA practice, she cautions that 'the local authority has less power than before, and it helps put the child at the centre of the process' (LexisNexis, 2003). I agree with Usher on this point, based on Melosh's (2002) observation on the role that adoption case management had in the overwhelming growth of the social service profession over the course of the 20th century. Usher's view, informed by her post as national policymaker charged with interpreting executing multinational aims within local child welfare systems, articulates a view that has been nominalised within much of the legal discourse around children's rights provisions. Her balanced approach to managing the various interests of adoption parties is supported by the incapacity of child adoptees and the wide cross-cultural variation in policy interpretations on critical issues such as prioritization of rights. Acknowledging multiple rights-bearing parties does not challenge the exclusivity of the children's rights regime. Rather, it ensures the existing rights regime method of governance a greater likelihood of success towards its humanitarian aims. I presume – although reluctantly – that for practical or ethical reasons, as suggested by Sunstein on one hand or Posner and Landes on another hand, the rights regime is no longer retractable. If a rights regime is mandated by the support of a variety of commentators, I then argue that a wider group parties are entitled to receive protection under the law to support a more efficient operation of practice regulation. In an effort to develop a conciliatory alternative, I suggest an approach commensurate with Becker's idea of a partially

regulation for TNA contracting, based upon the belief that greater equity of TNA governance may result from regulatory protection of reproductive contracting for parents.

In spite of the frequent use of the 'best interests' term, humanitarian law and national public policy are not in complete alignment on the meaning of the standard language. Aligned with Hastrup's (2003) conclusion that legal language fails to articulate the range of rights and interests now conveyed under humanitarian law, I believe the perceived efficacy of TNA law depends on the critics' determination of the ultimate purpose of this complex reproductive practice. Variations in the perceived purpose of TNA have a direct correlation to the perceived intent of policies that regulate processes of and access to this practice. As a result, national interpretations of the legal standard remain varied and possible inequities result from the conflict of laws across jurisdictions or the conflict of interests among parties. The perceived purpose of TNA also corresponds to the scale within which the primary practice beneficiary rests. Although mandating a singular interpretation of the law across all scales may be impractical, finding a means to equitably regulate the interested TNA parties to map legal intentions across practice scales in a new way.

Conclusion: Considering Alternatives to the Children's Rights Regime

In this chapter, I have conducted an original review of the governance of global practices of TNA by the UNCRC and the Hague Convention multinational instruments. The main aim of this evaluation was to make a unique and timely contribution to the existing scholarship on the current level of regulatory efficacy

in TNA law at all practice scales. In contrast to most of the existing studies on various aspects of the UNCRC standards enforced under the Hague Convention, this analysis focused examination on the substantive impact of variations in the perceived intent for the TNA practice that occurs across its multiple scales. Using a research approach primarily building on work in legal geography and comparative law (among them Freeman, 1999, 2003; Santos, 1991; and Silbey, 2001) this review of TNA law focused on jurisdictional scale as a key determinant of legal efficacy.

In the first area of this two-part analysis, I reviewed the overall efficacy of regulating TNA family building practices through the current method of extending children's rights in global regulatory instruments. Although efficacy is not a standard customarily used to evaluate policies developed in areas of humanitarian law, I argue that the concerns of TNA practice are not exclusively humanitarian but actually a complex matter of family building that is regulated additionally by various social policies on contracting and civil liberties protections. Considering that TNA spans areas of human rights and social policy, I cite evidence of ongoing child welfare infractions, clear divergences in the standard interpretations of similarly situated receiving nations such as the UK and the US and numeric differences in TNA levels between these nations as indicative of an absence in global regulatory efficacy for local processes.

In this analysis of efficacy, I first reviewed the key arguments of leading TNA legal and policy commentators, primarily issued in support of the UNCRC 'best interests' child welfare standard and the overall success of the Hague Convention in furthering the UNCRC aims. Within this evaluation of the merit of this standard, I reconsidered the extent to which the laws address specific concerns raised by analysts and drafters from the time of UNCRC ratification to the present. In particular, I questioned whether situating family building

authority under the global jurisdictional authorities of the UNCRC and the Hague, which permits wide variations national interpretations of the international 'best interests' standard, have had a material impact on the fulfilment of the aims of these global protocols.

Unlike other reviewers of the law, my comparative analysis of UK and US policies on TNA indicates that these measures have failed to efficaciously regulate those elements of TNA that have a humanitarian dimension – such as illegal child trafficking as well as those directed at simple family building practices. Based on a detailed review of arguments developed in support of these laws, I found that most scholars have focused attention almost exclusively on assessing the law's ability to address the humanitarian aspects of TNA practice. I acknowledge that both legal measures offer much-needed protections to at-risk child populations and I support some of the theories voiced by commentators such as children's rights supporters (Aitken, 1997), human rights spokespersons (Freundlich, 2000b) and adoption advocates (Bartholet, 1993; 1999). Nevertheless, I feel that these laws have largely failed in their aim to effectively and equitably regulate TNA as a family building practice.

In looking only at the extent to which the UNCRC 'best interests' standard and the Hague protocols support the global human rights interests of children, analysts of TNA law have generally omitted to conduct detailed empirical investigations of the impact of the regulation in practice (Freundlich, 2002). I accept the claims of other analysts regarding the efficacy of these global measures but only if they are based on the limited presumption that TNA regulation has an exclusively humanitarian intent. Refuting this assumption, my review of TNA revealed that the regulation does have a number of other goals: to support children's welfare interests, to protect their human rights, to protect

national interests for population replacement and policy development as well as to defend individual civil liberties interests.

In examining evidence, I found clear differences in the national interpretation of UNCRC standards in the UK and the US as well as evidences of conflict in the interests of TNA parties across scales. In brief, I maintain that the current regulation fails in two respects. The law fails to address the conflicts between the interests of TNA practice parties and, instead, broadens the interests of children in a manner than conflicts with individual interests granted (implied or explicit) to parents. The second failure of the current law is that the national interpretations of the standard are varied, based on differences in the perceived intent of the law. The variations in the national interpretations of the universal standard effectively generate inequity in parental access to TNA across practice jurisdictions. Therefore, I argue that the governance of TNA family building under the UNCRC and the Hague governance is not efficacious in its current form, especially considering the differing UK and US national TNA policy positions on children's cultural interests.

In the second area, I analysed two particular areas of legal conflict that I believe are created by the current TNA governance. One area involved a lateral conflict among similarly situated receiving nations. As evidence of this conflict, I compared variations in the UK and US national TNA policy interpretations of the UNCRC standard aimed at complying with the Hague Convention terms and presented facts within international court disputes. The other main conflict is the conflict of interests between children and parents residing in the UK and the US. In these two comparisons, I found the UK and the US grant similar interests to children, and to individuals in terms of reproductive freedoms and family privacy, but maintain different presumptions on the scope across which these are conveyed. This means that the UK interpretation and practice favours the rights

of domestic children over the rights of the broader, global population of children. In contrast, the US policy interpretation and practice more directly supports the material interests of children in a manner that implicitly furthers parent's nationally granted rights to reproductive contracting and constitutionally granted civil liberties around procreation that exist concurrently with the protection of children's interests, both domestically and internationally.

In both national instances, however, I found that UK and US policies regulate parental access to TNA as a family building option in different ways. Seen in this way, the explicit extension of broadly conceived rights to children includes them within the existing global humanitarian 'rights regime' as conceived of by Sunstein (1991). Yet, I assert that children's entry into the global rights regime as a protected population may disadvantage parents who have not yet been designated as a population protected equally under the current global mandates (Skinner and Kohler, 2003). Although some commentators have suggested an extension of parental interests – such as through parental licensing (Tittle, 2004), explicitly defining parents as a class under the law (Bartholet, 1993; Bainham, et al. 1999) or by recognizing parents as a group of socially valuable contractors (Kaplan, 1996), this notion has not been widely taken up by policy makers.

In the final analysis of this chapter, I reviewed the merits of children's participation in a global 'rights regime' through UNCRC and Hague adherence. I presented theories speaking to the articulation of rights across process or practice scales from critical legal theorists (Sunstein, 1999), microeconomics (Becker, 1984), legal economists (Landes and Posner, 1984, et al.), legal pluralists (Santos, 1991) and comparative legal theorists (Sibley and Ewick, 2003). These works centered on assessments of justice and equity in policies in terms of their ability to protect the specific rights of populations across practice jurisdictions.

In sum, I believe that the UNCRC and Hague and national policies demand renewed analytical attention, particularly study of the extent to which the international law can better support practically beneficial policies within national and local scales. I suggest that TNA be regarded as a multi-scaled practice, in the manner furthered by legal pluralists and comparative legal sociologists Boaventura de Sousa Santos (1981), Silbey and Ewick (2003) and others. I believe that the diverse intents of TNA prevent a clear determination of whether, and on what scale, the governing policies are efficacious. Yet, in difference with other scholars, I insist that scale is a consideration. Although it has until now been largely ignored by legal researchers, it remains a very important factor in determining policy efficacy. I base this statement on evidence suggesting that national and family interests are not ancillary to the practice of TNA but are, instead, essential to the continuation of this form of child welfare. I assume here that the interests of nations and parents are separate from children's global interests and that consequently, that the exclusive aim of the TNA practice and regulation cannot be simply the protection of children's rights, broadly conceived. Rather, I believe that any interpretation of the descriptor 'primary', used in the 'best interests' Article 3 clause, that results in a complete subjugation of national and parental interests to those of children causes a conflict of the law that may deter prospective parents.

Drawing on Roby's (2007) practical concerns around the implementation of the 'best interests' standard on local scales and the level of parental access to TNA as a family building option, I suggest that national governments would be well placed to interpret these standards in ways that actively support parental interests for contracting, privacy and reproductive freedom guarantees, if their main aim is to ensure parental access to reproductive options. In alignment with Sibley's approach, I believe that laws aimed at protecting the welfare of parties

cannot be assessed without attending to differences in national and international policy contexts. Yet, I am not prepared, based on the current evidence of interested parties, to agree with her statement that there is a broader dearth of 'internationally consistent or universal set of "best practices" within this socio-legal process by which to examine legal efficacy' (2001). Instead, I suggest that her comments beg further thought about how it might be possible to tailor national responses to the Hague mandates so that they actually support national interests in a more direct manner. At least, I hope that any future amendments to the current TNA governance would better address the need to consider the multiple scales of interests that co-exist within this family building practice (per Becker, 1981 and Becker and Murphy, 1988) while retaining the much-needed protections for children.

Exploring other alternatives to the present legal configuration, I borrow a vision of legal pluralism developed by Santos (1997) and advocate a more explicit inclusion of national intentions for TNA within the already flexible international norms, similar to Sibley (2001). Santos (1997) aptly notes, in a parallel manner to Sunstein's (1991) conjecture of a fully entrenched 'rights regime', that countries are often volitional in their protection of their national sovereignty interests and, that therefore, exclusion of national interests is implausible. The Hague Convention governs TNA processes with the presumption of rights exchanges, trade offs and national variations pursuant to its four primary functions as an instrument that monitors protocol (2008). If global inclusion of national interests does not occur, as Santos further suggests, the outdated and potentially unjust global resource hegemonies may remain intact, even if nations externally evidence adherence to progressive, multinational aims. This more pluralist re-conception of multinational law does not eradicate national sovereignty interests within the TNA practice but rather explicitly accounts for them.

Future analysis of the governance of TNA and other international family building methods requires a more extensive, but also more explicit, review of the laws of international reproduction. At the least, legal drafters and policy makers must obtain more data on global TNA practice particularly around the equitability of access for different population of receiving parents and contracting trends for reproductive service technologies. The extension of children's interests alone cannot be a wholly effective means for regulating these critical, multi-scaled contracting and diversely interested processes. As a result, I argue that the children's rights regime has neither contributed to the development of necessary local 'best practices', nor supported the protection of parental civil liberties required for access to reproduction. Until policy developers can come to an agreement upon the need for a geographically sensitive re-definition of legal intent for TNA and other forms of international family development, the presumption of the efficacy of the current governance may remain unproven.

Chapter 6

TNA and the Neo-Commodities of Modern Family Building in the US and UK

The claim that international adoption is a virtuous market does not negate the fact that it is nevertheless a market. Adoption agencies hold regular seminars to describe their trade. They list their children online (in some cases) and profile them in glossy magazines. They also share clearly differentiated prices. It's hard to argue that this isn't commerce, because it is (Spar, 2006, p. 186).

The economics of modern family building incite no more than an ambivalent response from commentators in receiving cultures because the perceived commercial nature of transnational child adoption remains one of the most commented upon and objectionable aspects of the practice. Some analysts repudiate transnational adoption based primarily on the conviction that it is an excessively expensive method of creating a family. Yet, another equally adamant group of reviewers issue an opposing claim that TNA has an undeniable social benefit, both for the global population of needy children as well as for the population of prospective parents who place a great value on extending their families in this manner. In the articulation of both these opinions through formal US and UK policies or the informal cultural discourse surrounding TNA within each country, I found that surprisingly few reports validated their claims of either economic intensity or altruism with details of actual practice costs. Even purportedly reliable sources of information for prospective receiving parents, such as those published by government agencies, leading social welfare NGOs or established institutes for academic, legal and historic research on adoption seldom estimate key process costs. Instead, most accounts approximate total practice costs, but neglect to inform parents of the required processes that often

have the greatest impact on final cost amounts. Even further, I propose that the omission of cost breakdowns also contributes to the perpetuation of factually inaccurate assumptions within the wider culture about the relative economic intensity of TNA, as compared to other equally modern methods of family building.

This chapter is a critical engagement with the lack of transparency and accuracy that typifies many presentations of TNA. It is based on a comparative study of routine costs and the evaluative economies that are an essential component of modern TNA practices. This study evaluates the veracity of UK and US cultural responses to the economies required for this family type of family building. The primary aim of this review is to address the need for detailed, accurate and current quantitative and qualitative assessments of TNA economics. In this comparison, one of the main suppositions I intend to challenge is the view that TNA cost levels are markedly higher than what is required to complete a range of reproductive alternatives. While the presumption of the exorbitant costs of TNA may be true in some instances, a comparative survey of the costs required for several reproductive alternatives does not support this conclusion in all cases. The primary issue that this chapter addresses is the absence of accurate cost information on TNA, the political economies of receiving families and the particular economic geography of TNA, as compared to the broader reproductive service markets. By this, I mean to assess the realities of TNA economies through an interrogation of the national differences in practice cost structuring in a manner not currently supported by uncritical presentations of total practice sums alone. At the end of this chapter's mixed method evaluation, I argue for the inclusion of TNA and other similarly modern reproductive practices within future assessments of the economic geography of reproductive service markets, family microeconomic theory and social policy analysis, among other areas. This research will extend the recent

work of Strauss (2008) on decision-making analysis to include patterned behaviours around traditionally non-rational activities such as reproductive practices.

My preliminary review of estimated TNA costs, supports the overall conclusion that this family building method requires a high level of expenditure for the average UK or US family but also that little information exists about the economic impact of certain family building decisions. Conversely, there is equally little analysis of national policies that have caused certain family building methods to become such economically intensive processes. To detail this further, a 2008 Annual Survey of Hours and Earnings by the UK Office of National Statistics reported that the median gross weekly wage of full-time UK workers was £479 per week or £24,908 per year, per individual, based on a 52 week year (ASHE, ONS 1108. 2008). Similarly, the US Census estimated the average household income level in 2008 was \$50,303 (USCB. 2008, Table 689), and the median family income was \$61,521 (USCB. 2008, Table 695). In comparison, an uncomplicated and routine placement of a single child with UK or US parents, at this writing, costs between \$10,000 (or £6,000) and \$40,000 (or £20,000). Assessed as a proportion of an average household income, the cost of an uncomplicated TNA amounts to at least 20% or up to 80% of the average annual income reported for UK or US families. At either level, this calculation does not convey much about the specific process costs that drive total expenses or indicate the methods currently available to parents for reducing overall costs. From the perspective of the families, the absence of process cost details effectively denies them the type of economic agency that comes from the knowledge about processes and practice options. As proven in a study evaluating the importance of strategy within intimate areas of family building, Anderson et al. (1994) found that cost knowledge is valued by parents and frequently supports strategic family decision making around reproduction.

Investigating the reasons for the absence of cost information, I examine the role of the state in maintaining the flows of reproductive practice knowledge. The contribution of regulations in shaping of the broader reproductive market has received scant research attention. Some early studies compared national policies on IVF treatments (Gleicher, et al., 2007; Ouellette, et al., 2005) and measuring general policy variations in reproduction regulation through individual case study methodologies (Dillon, 2003), yet little of this research has focused on TNA. In my comparative analysis of national policies on TNA presented earlier, I found that receiving country policy interpretations vary. Yet, I suggest in this chapter that policy differences also shape TNA practice economics to a greater degree than is suggested within existing practice studies.

To summarize my conclusions on the impact of national policies on practice economics, initially reviewed in the analysis of law in the previous chapter, I start by noting that the UK and the US hold oppositional policy positions on this practice but provide similarly few details on actual estimated process costs to support parental decision-making. To explore the knowledge economies created by policies and informational access, I investigate the differences in national responses to TNA cost economies, contract permissions and levels of electivity. On one hand, the UK government and its representatives have openly insinuated that the pervasive practice economics of TNA may result in a threat to the welfare of children. Former Prime Minister Tony Blair crystallized this presumed association in his comments on the *Kilshaw v. Allen* (2001) UK high court ruling on the legality of 'internet adoptions'. In this internationally celebrated case, a UK and a US couple vied to receive custody of the same set of female twins but the ruling rested upon the UK court opinion on the economic realities of the modern TNA practice. In the case, both sets of parents had contracted independently with an online adoption agency to receive

the twins. In the end, the court barred the Welsh Kilshaw couple from receiving full custody of the US-born, infant girls (colloquially called the 'internet twins') and, instead, awarded them to the Allen family of California. Upon this ruling, Blair sharply summarily condemned, what he called, a 'deplorable trade' in babies (Carvel, 2001) by inaccurately referencing legal cross-border family building with terms used to describe criminal forms of child immigration (such as 'for profit' placements or child trafficking). Following this incident, the UK shifted its policy and imposed new restrictions on TNA processes that included significant changes to the cost structure of the practice.

The three main points of contention to which Blair responded all pertain to the economics of this reproductive practice. First, the court ruled against the Kilshaws' breach of contract claim by the adoption agency, upon receiving a higher down payment from the Allens for the same twins, decided to revoke the contract with the Kilshaws for the higher sum. Second, the UK ruled against the Welsh couple because the UK would not honour privately contracted adoptions with foreign agents in potentially for-profit arrangements. This ruling extended an existing prohibition on child adoptions by independent, non-charitable agents. Third, and in tandem with the second point, the court failed to recognize any adoption involving agency solicitation or contracting with prospective parents via the Internet medium. The UK court ruled the Internet is an unsuitable family building technology and would only uphold adoptions facilitated by approved agents of the UK government, specifically local social welfare authorities as legitimate.

Other commentators issued further reproofs and extended their critique to include the receiving parents opting to build their families through this method. A vocal critic, Baroness Nicholson proclaimed that parents electing for TNA, residing in the UK or elsewhere, aim to further their personal interests or those of

adoption agents (i.e. attorneys) over protecting the welfare of the child adoptees (Taylor, 2002; Nicholson, 2006). The denouncements of both Nicholson and Blair forged connections between the myriad economic processes of modern family building that require sizeable parental expenditures and the use of technologies that are not traditionally employed for family building. In the end, these UK policy shapers helped to cultivate a negative public opinion of the practice by inaccurately associating high reproductive practice costs with criminal activities in a manner that casts dispersion on the global population of receiving families as introduced in the previous chapter's review of the law.

On the other hand, the US stance on TNA is generally positive and the US policy permits a correspondingly wider variety of reproductive service contracting. In a survey of national web content on the practice, I found that US parents have greater access to more detailed information on processes than analogous UK sites (such as on DCSF, BAAF). Some of the most notable sources of information on adoption processes, costs, history, and the law include the National Adoption Information Clearinghouse (NAIC), the Evan B. Donaldson Adoption Institute website, Adoption.com or AdoptionServices.com. Similarly, the US Government Department of Health and Human Services, Administration for Children & Families, Child Welfare Information Gateway (US DHHS) list the state-by-state status of the key adoption laws. Nonetheless, very few of these sources publish the specific cost ranges for the processes detailed therein. Therefore, it is difficult for prospective US parents to obtain detailed information in the early phases of TNA decision-making. Most information is conveyed through an individual petition of state authorities or interviews with private service professionals, an option primarily limited to parents who have already made initial commitments to proceed with this method rather than others (Children's Home Society, 2007).

Unlike the depiction of TNA as a threat to child welfare, most US resources tend to downplay the economic intensity the practice. Instead, these sources emphasize the social value and non-monetary aspects of the practice. For instance, many non-governmental organizations sell online spaces adjacent to their fact-based webpage content for advertisements by adoption service providers (Holt International, 2007; NAIC.2006, 2007, 2008 and others). These service advertisers use terms such as 'gift' or 'miracle' in their marketing to highlight the humanitarian benefits of this family building method and downplay the costs of their services. Having advertisers stress the broader social value of TNA and altruistic family benefits alongside factual process information may inaccurately suggest to US parents that TNA costs are insignificant. In the end, the failure to supply prospective UK and US parents with detailed knowledge of practice costs, invites consideration of the relationship between parental access to practice information and the inaccuracies about economics that circulate within the cultural renderings of this family building practice. This consideration of TNA knowledge economies is the focus of the concluding portion of this chapter's assessment of reproductive practice economic geographies.

In the first section of this chapter, I address the absence of a relative understanding of reproductive process costs within the UK and US contexts by asking *What is the range of total costs for a TNA child placement with a receiving family residing in the UK or the US?* and *Are TNA costs comparatively higher or lower than the average cost for alternative currently available to these populations of receiving families?* In response, I survey a wide range of publicly accessible statistics on family building costs and national assistance schemes obtained through UK and US national government sources, multinational adoption research organizations, reproductive health care provider specialists and national health insurers.

As a follow-up to these initial questions, I then ask *What costs make up the total TNA costs?* or, stated alternatively, *What costs are associated with the key processes within TNA?* I interrogate TNA process cost types further by asking *To whom are these costs remitted?* and *How variable are the costs for each process and why?* Implicit in this line of questions, is my intent to explore which of all process categories are controlled by receiving parents through decision making and which are controlled by parties outside of the family. My response takes the form of a detailed cost typology analysis in which I break down the total costs into their functional components. By examining differences in the national division of processes, I begin to identify attributes of the political economies of receiving families in the UK and US, based on their limited ability to control costs or, conversely, exercise local agency within this global process contracting.

In the second section of this chapter, I begin an examination of receiving family political economies and the economic geographies of this reproductive method. By examining the scales of process cost controls, I look at family participation in reproductive service industry networks on the global scale as impacted by national policy. I consider *What impact do differences in the scale of cost control – across local, national and international levels – have on the economic geography of TNA family building?* Focusing on UK and US national policies as the fulcrum between local-level family decision makers and international regulations, I assess national avenues for families to obtain governmental assistance for their family building efforts. This includes a comparative review of selected family assistance programs such as the UK *Standard Adoption Pay* (SAP) program (as amended 5 October 2008), and, since 2003, the US *Adoption Tax Credit* (§36C *United States Internal Revenue Code*). Based on findings from a comparison of UK and US benefit schemes, I develop the argument that national positions on family building economics have an effect on financial allowances granted to TNA receiving families, that either incentivize or hinder parental

interest in this method by onerous bargaining for entitlement to support (Eschelback and Daniel, 2005).

In the third and last section of this chapter, I explore initial theories about the economic geographies of the global TNA practice through a theoretical review of microeconomic theory and social economies of reproductive markets. I draw from a key body of works on microeconomic theory in areas of reproductive practices and family economic behaviour, as first explored by Gary Becker (1981, 1986a, 1986b, 1990, 1992, 2004, 2007), Posner & Landes (1978), Becker and Murphy (2000), and Barro and Becker (1988), Posner (2000) and other legal economists. This study approaches study of adoption market from a microeconomic perspective rather than a humanitarian approach, based on evidence of market entrenchment and the similarities between global family reproductive expenditures and other family economic behaviours (Freundlich, 1998). In particular, I draw from Becker's extensive work on family economic behaviour, fertility and interpersonal investment (i.e. wills, trusts, education, etc.), Posner and Landes' hypotheses on macroeconomic patterning of non-rational reproductive family spending behaviours, Richard Posner's proposition for adoption market de-regulation and Eric Posner's (2000) theories on cultural behaviours involved in compliance with tax incentives and sanctions. To assess Becker's initial propositions around reproductive altruism, I also consider Oded Stark's (1995) idea of 'shades' of altruism in detail to explore different scales of meaning assigned to non-rational investments in reproduction.

To this more general work on family economic behaviour, I add in a review of recent work within areas of economic sociology that examines the contribution of TNA to the development of global reproductive health care markets and specialized service industries. I look most intently at the work of US market economic theorist Deborah Spar (2006) who was among the first to

consider modern reproduction as a 'baby business', fraught with irresolvable moral issues (2006, p. 7). Regarding her multiple works on the economics of fertility and technology, I evaluate the scales that are forming within the specialized global reproductive service market in an effort to assess the current level of equity in familial access to reproductive knowledge. I also look at the critique of Austin and Daniels (1996) on the proliferation of global reproductive service industry networks and research on family economic behaviour and global care economies as well as V. S. Peterson's (2002) feminist-based argument that prevailing assessments of social reproduction define value exchanges narrowly within emerging family development processes.

Within my review of social economic theory, I include a brief examination of the topic of child commodification, which is a recurring element within critiques of TNA. To review writings on this subject, I draw from the recent works of Viviana Zelizer (1985) on the commodification of interpersonal relationships and the culturally presumed separation between the un-commodified 'sacred' qualities associated with kinship and the commercial and remunerative processes often considered 'profane'. In a departure from Claudia Castaneda's (2002) focused study of the commodified figure of the child in TNA, I look at historical and cultural fluctuations in the assignment of value to children and families that contribute to the perceived difference in this reproductive method.

In the last part of this section, I move into a more explicit analysis of the economic geography of TNA to consider the agency of receiving families within the reproductive service economy. I explore what Daniel Thomas Cook (2000) calls the production of a 'consumer personae' with complete fluency in procuring process cost knowledge using technology and applying learning to improve contracting in relation to TNA families. Among the growing body of works that

explore the use of technology within modern reproduction, I take up a specific assessment of anthropologist Sarah Franklin's (1997) work on the variable impact of technology within assisted globalized family building and the thoughts of Franklin, Stacey and Lurie (1998) on the role of technology in the production of knowledge within reproduction. Inspired by both works, I investigate the impact of technology regulation in relation to the issue of greater equity or more restrictions on parental access to valuable family building information.

Seeing the receiving family political economies as part of wider networks of economic geography, I examine receiving family economies as a component of family policy (Brinig, 2007), global care networks (Freeman, 2003; Ballantyne, 1996), reproductive health care industries (Cohen, 1996; Dukes and Tyagi, 2009; Kovacs, 1999) and the economic aspects of global humanitarian policy developed primarily in areas of cultural, economic, political, legal feminist geography (Freundlich, 1998, 2000a). To expand upon existing notions around family behaviour within economic geography and elsewhere, I draw extensively from a compelling view of family economics developed by feminist legal theorist Margaret Radin (1999) on, what she calls, 'partial' or 'incomplete' commodification. To look at elements of this reproductive market that TNA furthers explicitly, I consider the work of geographer Doreen Massey (1996, 2004) on the various patterns of family participation in global economies, and Law and Hetherington (2000) on local family economic fluidity. In contrast to these theorists, I also examine Elizabeth Hirschman's (1991) insistence on cultural distinctions between the 'sacred' and 'profane' elements in family building as well as Higgins and Smith's (2000) vocal objections to the marketing of adoption in the UK.

In concluding this chapter's analysis, I argue that greater economic transparency is critical for understanding the impact that national policy and

cultural views have on the actual TNA costs to families. The act of marketing reproductive services by providers has received significant criticism in the UK as well as the US because the notion of selling family building is culturally frowned upon. Yet, I counter that economic transfers already may be too embedded in the various processes to be easily removed. Instead, I champion the approach of geographer Martin Jones (2008), who advocates the evolution of a 'middle path' in defining the political economies of families. I take from him, the hope of developing a more sophisticated, yet realistic, awareness about the economic geography of modern reproductive practices and policies.

Comparing the Estimated Cost Ranges Across Modern Reproductive Alternatives

While little information on reproductive costs – as an expense category - is readily accessible to prospective parents, I argue that even less is known about the costs of TNA relative to alternative methods. I presume, in this statement, that parents are able to consider multiple reproductive options and are not hindered by health conditions or other factors that might limit their access to particular methods. In an effort to address the absence of detailed cost information for several reproductive methods, I compared cost data for TNA and other forms of modern family building that are currently popular with UK and US families. With a primary aim of evaluating the absolute and the relative family costs of TNA, I compared statistics gathered from a variety of UK and US government based primary and secondary sources and adoption research organizations. My intent was to measure the amount of information available to UK or US prospective parents who are at the initial phase of method selection and strategic economic decision-making. This comparative analysis of TNA process costs is a basis for the detailed cost typology analysis for TNA and the

broader theoretical evaluation of receiving family political economies that follows.

Methods and Strategies of Investigating Modern Reproductive Costs

In this study, I present findings from a survey of the average cost ranges for modern reproductive alternatives to TNA. I assessed several methods that are widely accessible to UK and US parents based on data obtained from various public and private sources, in three-month intervals or less, between the years of 2005 and 2009. Given the high level of decentralization in these datasets, I examined multiple resources including the American Medical Association, UK Human Fertilization and Embryology Authority, Adoption.com, Thompson Health (an integrated health care provider), Blue Cross Blue Shield of North America (multistate US insurer), among others. While this study does convey some details on component process costs across a range of reproductive practices, it does not aim to provide an exhaustive comparison of component process costs for each method. Additionally, this general survey does not delve into the potential that individual medical circumstances, family beliefs or other considerations that might limit the range of reproductive options on local levels. Instead, the main intent of this assessment is to test the assumption that TNA total cost averages are higher than for other modern family building methods. In the section that follows, I use a cross-method survey to situate a more detailed evaluation of specific TNA process cost areas.

I elected to rely upon inferential statistical analysis for this review, rather than direct inquiry with families, case studies or auto ethnography for three primary reasons. First, as suggested in Anderson et al. (1994) who found that

family reproductive planning frequently includes economically based strategies, I believe that studying the economic decision making processes of families in the sensitive area of reproduction is more difficult and, potentially, less accurate than using subject direct response methods. As the focus group study of Anderson et al. (1994) indicated, researchers observed that families often failed to accurately associate their personal economic strategies with their eventual family building practices decisions. Anderson, et al. found that family 'respondents appear to play it [family building strategy that has a direct influence on total costs] down in the interview' (1994, p. 25). To avoid subject biases and increase the accuracy of results, I elected to pursue survey methods with national data to assess the actual trends in spending behaviour of family populations.

My second reason for choosing to research costs through an inferential method stemmed from the need to offset data inaccessibility in the UK and the US resulting from decentralization. I support this evidence with details of difficulties in researching costs through fieldwork research. First, a UK local council authority refused to divulge detailed TNA information for fear of threats to parent 'confidentiality' around specific health and reproduction services and patient attributes (Camden Council Authorities, 2007). Compounding this, I found that the US maintains high quality data on TNA for virtually every sending and receiving country, yet the publicly accessible data on reproductive practice costs was considerably lower before 2007, during the initial period of data collection. US data quality improved after 2007, as the US prepared to enter fully into the terms of the Hague accord in April 2008. In comparison, the quality of data accessible through UK sources also improved over this period, for undetermined reasons. UK data access increased because of website upgrades by the BAAF, ICA, HFEA and other NGOs researching UK family policy. In spite of these improvements, the overall quality of UK data remains less detailed and extensive than statistics provided through US sources, likely due to the

smaller population of parents that have elected to contract for this method over similar alternatives

Data incommensurability between UK and US statistics was a third contributing factor in my selection of an inferential research method. The lack of commensurability in terms and categories between UK and US processes of TNA - which extended to ancillary reviews of TNA data for other primary receiving nations - required cross-verification with data obtained from multiple sources. One possible reason for the lingering differences in UK and US terms and categories is that the Hague Convention standardized, but did not universally mandate cost parameters for all adherent nations, either total costs or the costs of component processes. To offset inaccuracies caused by incommensurability, I strategically considered publications from UK and US private data sources such as publications and research published by national or regional associations of reproductive medical professionals such as the HFEA, AMA (Neumann et al., 1994).

Inter-country Adoption Cost Ranges

According to NGO and government agency estimates I surveyed, the total costs required for a TNA placement with UK or US parents appear comparable in level. In comparison to TNA costs to UK parents range between an estimated £10,000 and £20,000. These figures presume parental receipt of support from UK government social welfare authorities and does not account for private arrangements with other approved adoption placement agents. In comparison, the estimated placement cost to US parents ranges between \$7,000 and \$50,000 depending on individual circumstances (Adoption.com, October 12, 2009). The

United States Department of State issued a more conservative TNA practice cost estimate in 2009. The USDS indicated that minimum costs for the placement of a single child are \$7,000. These are total estimated costs for this reproductive method. I examine the significant national differences in TNA cost structure in fuller detail within the section following this cross-method comparison.

Normal Delivery Method Costs (Unassisted and C-Section Options)

The processes required for uncomplicated unassisted vaginal delivery or assisted C-section delivery, often regarded 'normal' or 'traditional' reproductive methods, are potentially less than what is required for TNA. However, natural delivery can cost parents a similar sum, particularly in cases where unexpected medical complications occur during delivery. The costs for normal delivery are primarily comprised of non-mandatory hospitalization (estimated at two days by insurers) and epidural medication, when professionally administered at a hospital (Blue Cross & Blue Shield, 2009; Thompson Network, 2007; Group Health Management Cooperative, 2009).

Relatively few sources of information on reproductive costs (i.e. professional organizations, hospitals or insurers) provide easy access to cost estimates for 'traditional' or non-technologically assisted methods. To obtain reliable cost estimates for unassisted methods, I employed two tactics to gather this data. First, I petitioned private insurers directly through interactive websites aimed at simulating parental selection processes and research reports (e.g. Matthews, 2009). Second, I surveyed the costs published in print collateral materials prepared by several large, well-established national US insurers that include Blue Cross & Blue Shield in 2009, Group Health Management

Cooperative in 2009 and other multi-state US health care research organizations, such as the Thompson Network, March of Dimes, Agency for Healthcare Research and Quality, a subdivision of the US Department of Health and Human Services.

According to these figures, the cost for an uncomplicated, hospital vaginal delivery to US parents in 2008 (without epidural or other surgical procedures) was an estimated \$8,000 without insurance coverage (MOD, March 10, 2009). This figure was in the same range as an earlier 2004 estimate published by the March of Dimes (MOD), a charity organization devoted to paediatric medicine research and the prevention of birth defects, and the Thompson Network, a clearinghouse for insurance estimates across several providers. Both MOD and the Thompson Network estimated that the uninsured cost of a natural delivery for US families ranges between \$7,455 and \$8,718 in total. Yet, according to Adoption.com estimates, published in 2008, this sum may force some parents to pay up to \$30,000 with variations resulting from parental preferences and medical needs. These estimates for normal delivery provided herein do not include any additional costs that may result if families elect to contract privately for additional delivery assistance such as midwives, doulas, or for special delivery requests.

In comparison, the approximate cost of an assisted natural delivery, which includes either a planned or unplanned Caesarean section birth (C-section), was only slightly higher than an unassisted vaginal delivery. Statistically, MOD and Thompson Network estimate that up to 29% of all births in the US are C-sections, but neither organization indicates what portion of those are planned. In 2008, the MOD and Thompson Network published online estimates that an unplanned C-Section delivery might cost between \$10,317 and \$12,175. In contrast, these organizations estimated the cost of a planned C-section at the lower level of

\$7,000. This discrepancy shows that the cost of all natural uncomplicated, non-technologically assisted delivery methods (both C-section and vaginal births) fall into similar cost ranges, although some insured parents have the option to further reduce birth costs by electing to plan a C-section. Even further, the estimated cost of a natural delivery, as compared to a TNA child placement, disproves the assumption that TNA costs are consistently higher than those routinely required for a normal natural delivery. In reality, this study showed a similarity between the lower estimated cost range for a TNA and the average costs required for natural delivery.

The primary method UK and US parents used to control cost for delivery include is through pre-purchasing maternity insurance coverage or contracting for services before the onset of labour (March of Dimes, 2008). This is true even for UK parents who receive maternal care at a nominal charge through the UK National Healthcare Service (NHS). US parents pay an average of \$1,689 for an uncomplicated hospital delivery, even with full insurance coverage, pre-purchased 12 months or more before pregnancy (Mathews, 2009). To determine the extent to which insurance prevents US families from paying total delivery costs, a 1999 study of maternal insurance coverage levels across nine states stated that between 17% and 41% of childbearing women in the US lacked insurance before pregnancy. Only 1% to 4% percent of US women in this survey remained uninsured at the time of birth (Agency for Healthcare Research and Quality, 2008). The study did not estimate the cost of the short-term maternal insurance. In comparison, privately insured maternal costs were higher on average than costs for publicly insured deliveries. On average privately insured families paid \$8,366 total costs with \$6,520 made up of delivery costs but families with US Federal Medicaid insurance coverage paid \$6,540 total with \$4,577 for the actual delivery (Sakala and Corry, 2001; Sakala, 2004).

This precursory review of costs for ‘traditional’ reproductive methods showed that insurance coverage levels and reproductive costs vary widely across the US and the UK. It also indicated that these costs remain highly variable, even though parents strategically use short or long term insurance coverage to reduce maternal fees. Failure to contract for maternity insurance coverage, however, can result in large hospitalization and medication charges. As a result, the family costs for methods of unassisted or assisted delivery, particularly in the event of complications or incremental birth assistance, lower range TNA placements are comparable in total costs, if not lower, than traditional methods.

Domestic Adoption Cost Ranges

In comparison to the other methods reviewed here, the average cost range for domestic child adoption is the lowest for both UK as well as US parents. In the US, domestic adoptions range between zero to \$2,500 for adoption of a child from foster care but may total up to \$15,000 for an infant (under the age of two), if adopted through a public agency (Adoption.com, 2006). US parents may also opt to adopt a domestic child through a private agency. The cost range for a private agency domestic adoption is between \$4,000 and \$30,000. These agencies, social service or religious organizations such as Children’s Home Society, Catholic Social Community Services, etc. offer parents placement services that often support the adoption of selected child populations, offer enhanced document preparation support or in-house legal assistance etc. Independent adoptions, conducted by parental contracting with independent agents (usually attorneys specializing in adoption law instead of one of the agencies listed above) often range between \$8,000 and \$30,000. In contrast with public or private agencies, adoptions facilitated by independent agents use an itemized fee structure, frequently offer sliding scale fees based on familial

income levels, and offer adoption services not related to child placement (i.e. birth parent searches). Most importantly, US families contracting for any form of domestic adoption are eligible to receive federal tax credits and employer exclusion benefits after the adoption is completed and are, therefore, not included in this review of up-front adoption costs. I will address the topic of government exceptions and exclusions for TNA as a method of cost control offered by receiving countries to parents in this chapter's later review of evaluative economics.

In the UK, the basic cost of all domestic adoptions of infant children or looked-after children under state care is cost free to families because domestic adoption support, but not intercountry adoption services, are routinely offered by virtually every local council authority throughout the UK. As an alternative, the UK government does permit adoptions through approximately 52 independent charitable or religious organizations, registered as humanitarian and/or religious organizations throughout the UK. One of the most well-established of these agencies supports both domestic as well as international adoption types is Norwood Jewish Adoption Service of London. As with all charity organization services, Norwood provides adoption services on a voluntary basis and, according to the terms of the UK government, cannot officially accept payment for placement assistance services. However, a UK based database of adoption agencies indicated that parents receiving voluntary agency support such as that offered by Norwood may be expected to pay discretionary 'donation' of an unstated amount. This unofficial fee is used to offset the administrative or staffing costs incurred by the charity to complete processes (Adoption and Fostering Information Line, 2007).

Domestic and International Child Surrogacy Cost Estimates and Terms

The costs for contracting any type of surrogacy for prospective parents residing in the UK or the US are comparable to higher cost TNA child placements although cost estimates are very difficult to obtain without consultation with private surrogacy contracting agencies. For domestic, so-called 'traditional' US surrogacy arrangements that are not part of IVF treatments, the average estimated cost for a full term surrogacy ranges from \$40,000 to \$120,000 (Eaves, 2009). This figure is made up of attorney fees and remunerations to maternal carriers (Sunderam, 2009). The UK permits surrogacy only for non-profit and altruistic reasons under *The Surrogacy Arrangements Act 1985* (1985 Chapter 49) and the Section 36(1) of the *Human Fertilisation and Embryology Act 1990 Parental Orders (Human Fertilisation and Embryology) Regulations 1994: Powers and Duties of Local Authorities, Health Authorities and Guardians ad Litem*. Pursuant to this, the UK Department of Health stipulates that 'Intended Parent' (contracting parents) costs are not to exceed 'reasonable expenses' commonly resulting from the pregnancy of the Surrogate Mother (gestational mother). The approximate cost of a domestic surrogacy for a UK family is estimated at between £7,000 and £15,000 (HFEA, 2008). The UK government also does not explicitly forbid cross-border surrogacy agreements but places restrictions on parental domicile status, prohibits conflicts of law around parenthood citizenship status and strictly monitors child entry clearance in an effort to deter parents from electing this method.

Unlike the other reproductive methods compared in this chapter, surrogacy costs are potentially the most difficult to estimate accurately (Spar, 2006). Although surrogacy arrangements are not illegal in the UK, surrogacy contracts are unenforceable in UK courts unlike the US standard that permits private contracting (*In re Baby M*, 537 A.2d 1227, 109 N.J. 396 [N.J. 02/03/1988]).

Therefore, it is more difficult to accurately estimate the cost of domestic or international arrangements for UK parents. Aside from explicit prohibitions, surrogacy arrangements also involve different types of costs than TNA. Three differences in the process affect total costs. The type of surrogacy, whether full (also termed 'straight') or partial, and the maternal care fees requested by surrogate mothers can have a great impact on the practice cost. Additionally, any complications in the fulfilment of surrogacy agreements by any party, especially if contested, may result in legal charges that are well in excess of the anticipated costs for a TNA child placement.

The Cost Ranges Common to Categories of In-Vitro and In Vivo (IVF) Methods

Unlike TNA, various forms of IVF are commonly regarded as a treatment for the medical condition of infertility. Parental access to public funding for a single or series of IVF treatment requires a diagnosis by an approved medical examiner, for instance the UK NHS). Medical verification also enables parents to receive insurance coverage for infertility treatments through private insurers in some cases. For prospective US parents, the total cost of IVF ranges between \$10,000 and \$20,000 per treatment cycle (Caplin, 2006). There is an ample amount of detailed information on IVF types and procedures in the websites of private medical profession providers that does not require parents to petition medical service providers directly.

To meet the aims of this study, I have made several assumptions about the complex range of IVF processes to enable a general comparison across methods and to prioritize evaluation of large amounts of data. Future cost comparisons between TNA and IVF practices will need to account for national variations in the overall range of technologically assisted procedures such as gamete testing, various fertilization and implantation procedures as well as several advanced embryo tests. I have also made an informed assumption about UK and US definitions of a 'normal' IVF cycle of treatment based on extensive comparisons between medical profession standards in each country. In reality, several critical differences exist that may impact this comparison, such as limits on the number of fertilized oocytes implanted or the types of permissible embryonic manipulation. In spite of the differences in routine courses of treatment, I have accounted for differences in UK and US approaches by evaluating costs on a per cycle basis, even if several are commonly included in insurance or social welfare coverage in one country.

The parental costs for parental access to IVF differs between families residing in the UK and the US. Primarily because of the differences in allowed insurance coverage. First, the UK NHS currently covers only a single treatment cycle. Second, eligible parents must be between the ages of 23 and 39, have received a medical diagnosis infertility and can prove to be infertile for at least three years to receive treatment in the UK (NHS, 2008). The UK National Institute for Clinical Excellence (NICE), the NGO primarily responsible for analysing fertility trend statistics, medical policies and reproductive economies, recommended in 2008 expand NHS coverage to 3 rounds of IVF treatment, a 'full cycle' of treatment (NHS, 2008; NICE, 2008). If contracted with a private medical practitioner, a typical IVF cycle cost parents between £5,000 (HFEA, 2007) and £6,300 (gettingpregnant.co.uk, 2009), with fertility hormones treatment comprising an average of £2,540 of that total sum (gettingpregnant.co.uk, 2009). US parents who fail to obtain a medical diagnoses of 'infertility', but purchase insurance coverage for infertility therapies, may still be required to pay up to \$23,000 for fertility therapy treatments depending on the type of treatment received or the number of cycles required for pregnancy (Chaplin, 2006). Thus, UK parents must satisfy two criteria to obtain state-funded treatment. To be eligible for a reduction in infertility treatment costs, parents must satisfy not only the UK-specific definition of medical 'infertility', but also meet individual levels of medical health to avoid more costly procedures. In the US, however, parents may seek to contract for health insurance coverage from private insurers who will provide varying levels of coverage to offset the costs of infertility treatments.

Abundant Reproductive Options, Yet Little Free Reproduction

The findings of this comparison indicated that the total costs for various modern reproductive methods are similar in range and that TNA is not consistently more expensive than reproductive alternatives commonly available to UK or US parents. This comparison is based on the fundamental assumption that parents are able to consider a range of reproductive options and are not restricted by medical or other complications that would restrict their range of available options. These findings did not include the impact of state assistance on reproductive cost levels. Given these presumptions, the study showed that primary process categories differ across methods. It revealed that each method has a different set of key processes that drive overall cost increases. For instance, the primary cost for natural delivery is the cost of hospitalization, for surrogacy arrangements the legal fees or costs for required travel are the highest costs. Challenging common views, this study indicates that TNA can be less costly than 'traditional' reproductive methods of natural or assisted delivery in certain circumstances. Reading further into these results and drawing from my experience with empirical research, I found that the inequity in available data for individual family building options may impact the decision making abilities of UK and US families differently, particularly as they select among similarly situated options. The difficulty I encountered when researching publicly available information on key process cost areas suggests that prospective parents may also be prevented from developing an awareness of the cost similarities across methods in ways that might influence their reproductive decision making.

One of the most overlooked commonalities exposed by this study was that virtually all reproductive methods reviewed here required some form of external contracting, either to receive assistance, obtain insurance coverage or be eligible to receive treatment. The overall absence of cost transparency within

reproductive expenses invites questions about equity in access to various reproductive alternatives, a point that I take up in the concluding evaluation of agency in receiving family political economies. In the next section's cost typology, I further explore the scales of control within the economic geography of reproduction.

Analysing TNA Receiving Family Cost Economies through a Cost Typology

While the preceding survey indicated a general a similarity in the total costs of several modern family building types, it also suggested that certain key processes within each method drive those changes in ways that beg for further study of reproductive cost structures and the means by which they are regulated. Unlike alternative methods such as surrogacy and IVF types, which lack universal process standards and oversight through mechanisms such as the Hague, it would be reasonable to assume that TNA costs would be relatively stable in both overall amount as well as in the cost composition. This is not the case in fact, as a comparative review of the TNA cost structures in the UK and the US indicates. UK and US government policies actually regulate some of the most critical required processes such as pre-adoption home evaluations and child selection. These two processes are complex, highly tailored to family interests and potentially costly. While this complexity is difficult to measure, the differences in the annual number of TNA placements to UK and US families suggests that practice cost structuring may be an important factor in generating that variance.

Therefore, I investigate TNA cost types in an effort to assess national policy differences and variations in family building patterns between these otherwise similar receiving nations. Within this section, I evaluate UK and US TNA policies through a cost typology analysis of the processes most important to completion of an intercountry child placement. This assesses elements of the literal and figurative economies, conjoined in the notion of practice cost intensity. I look both at the actual costs of key processes to families as well as the ability to evaluate among potentially costly options as allowed by national policies. The hypothesis I test within this typology is that knowledge about TNA reproductive costs, and alternative methods, not only affects the literal access of families to reproductive options but also explicates the figurative social reproduction of particular economic behaviours like altruism across wider scales.

This typology analysis separates total TNA costs into three functional types that I have named *baseline*, *operational* or *preferential* costs. Each of these cost types results from processes that are primarily utilitarian, a discretionary requirement or highly preferential. In this configuration, the category of *baseline* costs are characteristically static and non-discretionary; the *operational* costs are mandatory variable in level, according to parental preferences; and the *preferential* costs are highly variable, non-essential costs incurred from changes in the manner or speed of the process that are initiated at the discretion of prospective parents. Most importantly, these three cost categories are common to all TNA practices but are configured differently under UK and US policies.

Within the three process cost types, I found that not only did category costs represent varying proportions of the whole but also that the national regulations and cultural reviews of those expenses also varied across categories. For instance, there is little dispute made over the sums required for simple

processes such as child custody filing fees; however, a great deal of attention is drawn to parental decisions involved in child selection that are dependent upon the laws of multiple countries as well as can dramatically change the final practice costs. In this analysis of estimated process costs, I analyse the impact of national policies on parental access to detailed process cost information as a valuable component of family reproductive decision making, in preparation for the chapter's final discussion of the political economies of TNA receiving families.

Comparing UK and US Configurations of Baseline Cost Requirements

The *baseline* cost category are the most fundamental and include expenses related to processes of child immigration, custody transfers and child naturalization within the receiving country. Without exception, these required sums are paid directly from receiving families to sending or receiving governments to cover administrative costs of document production and filing with governmental authorities on various levels. As a category, these costs are also universal and not TNA-specific, thus are commonly required in part for many other forms of child adoption or immigration. In comparison to *operational* and *preferential* cost categories, the *baseline* process costs are relatively fixed and small portion of the total TNA costs required of both UK and US parents.

To answer the question of how significant these costs are for prospective UK and US families, I found that *baseline* cost figures comprised a similarly low proportion of the total TNA cost for parents in each country. In the UK, parents pay around £400 in *baseline* costs, out of minimum £6,000 to complete a TNA placement. The UK Department for Children Schools and Families (DCSF), the

UK authority maintaining the most accurate cost statistics for all inter country child adoptions, and the BAAF, the leading adoption NGO in the UK, listed the primary administrative costs of TNA to come from the following processes: document legalization by the Foreign and Commonwealth Office for £19 per document, commencement of the adoption application fee for £140, and a nationality fee for the child to become a British citizen for £200 (DCSF, 2008). Calculated according to these estimates, the *baseline* TNA costs comprise less than 7% of the total.

The US *baseline* cost estimates are similar in amount and result from completion of the same type of processes. The United States Department of States estimated in 2008 that US parents must pay a minimum of \$7,000 to complete TNA child placement. Of that total, the US *baseline* cost breakdowns prior to 2008 listed several line item process costs that included the following: the INS/US State Department application (I-600 or I-600A) fee of \$405 or (N-643) \$125, the immigrant visa application and issuance fees totalling \$320. Additionally, parents must pay child custody fees that are set on a per state basis, but commonly range between \$150 and \$250 (not including probate lawyer fees) (Adoption.com, 2008). In sum, the total *baseline* fees to families for TNA are approximately \$1000. As a proportion of the total TNA cost to US parents, the *baseline* costs are around 10% or less of the total practice costs.

National TNA Process Structuring and Variations in the Levels of Operational Costs

Considering process areas in which the level of required economies has received more public and policy scrutiny, I now assess process costs that I term

as *operational*. Here, I compare costs associated with completion of the two essential processes of child selection by families and receiving family approval by authorities that are required before child immigration. These processes are related but not identical and I do not regard them to be *baseline* costs because family approval and child selection are unique to the TNA process and vary on an individual placement basis. Characteristically, *operational* costs satisfy extra-familial requirements rather than parental preferences (although these elements co-exist with processes such as child selection). Therefore, *operational* costs involve payments not only to comply with national receiving country laws but also go toward the satisfaction of sending country requests and even international authorities. These processes ensure the protection of the various interests of the adoption parties such as the children, the involved countries or receiving parents. It follows that individual contracting can result situations where *operational* costs exceed *baseline* costs. In this segment, I review the substantial differences in UK and US receiving country policies on *operational* processes and analyse variations in the process cost structures and the amounts of money required of prospective parents.

For all changes in child custody involving UK and US parents, a family evaluation process is mandatory. Yet, in TNA this process is more involved because of the need to meet sending country requirements pursuant to Hague Convention mandates. The critical difference between the homestudy processes in the UK and the US is the structuring of assessment costs. To complete a UK or US homestudy assessment, prospective families must participate in several in-office and in-home interviews and extensive background inspections conducted by trained, governmentally approved social work professionals. In the UK, this is called a Form F. In the US, the form is an I-800A or after family approval, an I-797 form. Alternatively, if parents adopt an orphaned child from a non-Hague member nation they must complete an I-600 form (AFIL, US Citizenship and

Immigration Services, Chelsea and Kensington, 2007). After approval, prospective parents may proceed with child selection or obtain an entry clearance for the selected child.

According to the Inter-Country Adoption Centre UK, one of the few governmentally approved NGOs that supplies interested parents with preliminary telephone referrals and general information on process costs of TNA, quoted that a routine homestudy assessment costs UK parents approximately £6,000 (November, 2006). The UK, unlike the US, requires prospective TNA parents to reimburse local authorities responsible for completing the multi-step homestudy task and report, variously termed a 'home assessment report' or, to satisfy more stringent requirements by sending countries, such as Russia, a 'dossier'. Based on fieldwork petitioning and research with online databases, I found an explicit and repeated clarification, within local and UK national governmental authority communications, that the homestudy is conducted without a fee to parents electing to pursue domestic child adoption and adoption of looked-after foster children (Kensington and Chelsea, 2007; BBC). In contrast, a routine homestudy for US parents costs approximately \$2,400. This sum includes a routine minimum number of tasks to satisfy government requirements which normally two interviews, a report production or a court visit with the possibility of additional home visits if required, before or after, child placement at around \$350 per visit.

Comparing the UK and US homestudy cost structures, I found that the US government does not bundle process costs into a single fee nor does the US government mandate that parents employ an agency of the US government (or local affiliate) complete homestudy assessments. Instead, the US allows parents to contract privately with certified independent adoption agencies (Summit Adoption Homestudies, Chelsea and Kensington, 2007). This difference

exemplifies the difference in contracting permissions. In comparing the regulations of both countries, I found the US places fewer stipulations on parental contracting arrangements. The US Department of Health and Human Services (HHS) set the minimum requirement that agents responsible for completion of the homestudy must satisfy state, federal and international criteria for certification as a social welfare professional (HHS, 2009). This threshold allows US prospective parents to use any approved non-US private agents approved by the Hague Accredited, Joint Council on International Children Services, or any US Department of Health and Human Services (HHS) state authority or state department of social services.

As a result, US parents frequently contract with more than one private service provider to complete all necessary components for contracting of specific processes allows parents an increased ability to manage total practice costs. For instance, parents may leverage the expertise of service providers in specific areas such as pre-and post-adoption report production such as with the Adoption Home Study Service (2008), country specific dossier preparation by European Adoption Associates and the Russian Ukrainian Private Adoption Project, or highly specialized dossier translation services such as with Foreign Documents agency (2007). Alternatively, parents may also contract with one of a few, mid-sized multi-state agencies such as Children's Home Society that broker the services of sub-contracted process affiliates in adoption law or dossier preparation on behalf of prospective parents as with (2008). In all of these scenarios, US parents may apply contracting skills developed in other areas of consumer goods or service purchasing to reduce the likelihood of potentially costly filing errors and delays that can permit a substantial reduction in overall TNA process costs.

In practice, the UK bundles *operational* homestudy costs in a way that reduces process cost transparency and limits the ability of prospective parents to address local process support needs through private service contracting. Although the Hague standardization permits more oversight into the opportunity for UK families to reduce any of key process costs below published minimums is more limited than for US parents. In a summary verification of this point, the UK DCSF website contained the following entry in a section of an online question and response area entitled 'Is there any way to reduce the costs involved?' The department offered the response, 'Not easily. The items of expenditure listed above are essential and cutting corners should be avoided' (March 3, 2009). Thus, the combined effect of process bundling in homestudy assessments and the requirement that prospective TNA parents assume financial responsibility for meeting this international standard is a key means to cause an overall UK policy on the practice.

The *Children's Act of 2002* is the main UK regulation governing the TNA homestudy process, but this measure also influences the economic geographies of this practice in less apparent ways. The UK government refuses to acknowledge any homestudy conducted by non-charitable non-government agents, which effectively restricts the scale of contracting for reproductive services by parents with the a limited number of UK domestic, governmentally approved TNA agents. Even further, only a minority of the UK local council authorities provide child selection services to support parents electing for intercountry forms of adoption. For instance, only 50 local council authorities and charities in the UK provide placement support for parents opting for TNA (DfES, 2007). For example, in 2007, only 3 out of 10 London area councils (Kensington and Chelsea, Camden and Westminster) provided full intercountry adoption child placement support services in addition to all forms of domestic and foster adoptions (BAAF, 2007). Yet, local UK authorities grant service

priority to residents of their council or borough over non-resident potential adopters. When parents cannot receive assistance through their local council, the authorities recommend that interested families petition one of the limited number of alternative agencies throughout the UK that conduct intercountry adoption home assessments (such as through London Borough of Bromley Family Placement Services, Hammersmith and Fulham Council Authorities).

Social workers at the Kensington and Chelsea Council also inform parents of the local authority policy to prioritize placement services to parents interested in pursuing domestic adoptions over those pursuing intercountry adoption (2008). My fieldwork observation supports the earlier findings of a 2000 study by Hayes (2000) who found that a substantial portion of UK social work authorities actually attempted to actively persuade parents, on a per family basis, to pursue domestic over intercountry adoptions. Some of the UK approved agencies are charity organizations with social work resources diverted to provide multiple services not related to family support such as individual counselling, eldercare or veteran support that also decrease the number of alternatives available to interested parents. By preventing UK parents from accessing alternative forms of support, the expense levels of TNA remains high and adds to the category of non-negotiable *baseline* costs and contributes to the perception of cost intensity that pervades the practice.

Aside from the obvious cost impact to families, the receiving country policies that restrict public access to governmental or privately contracted service alternatives discursively contribute to the unique economic geography of the TNA practice. Affirming the early research of Seymour Edwin Harris (1947) who studied the economic impact of family policy, I suggest that national and local UK policy parameters create the externality of competition among prospective parents within the service market for adoption homestudy preparation and

government entitlements (Eschelback and Daniel, 2005). By restricting the scale at which prospective parents may access highly specialized support and increasing the cost of available avenues, the UK government increases control of family building economies and reduces a form of family agency exemplified in the US system. Followed to its logical conclusion, the limitations placed on UK prospective parents to homestudy service support fosters a Keynesian competition among the prospective parent population that seeks to garner scarce adoption support through a limited range channels providing public resources. Although the numbers of parents in the population of interested TNA parents may be small, especially in comparison to parents pursuing other methods of reproduction, my review of this *operational* cost category suggests under valued connections between perceived practice intensities and cost structuring.

An investigation of bundling as a general policy strategy leads me to an investigation of the reasons for the UK restrictions. In service industry outside of the area of reproduction, cost bundling is very common practice. It routinely involves selling services at a single fixed price rather than as individually determined *à la carte* services. In studies of non-reproductive service contracting, bundling has been shown to lower the level of perceived economic intensity because the number of contract service providers is reduced (Crawford and Cullen, 2007). Entraining with this conclusion, some UK-based social welfare professionals have explicitly criticized the US system of per process contracting in favour of the UK approach. UK commentators suggest that the US system permits an unethical 'commercialization' of family development processes because private forms of child placement contracting remain legal (Higgins and Warren, 2002; Ballantyne, 1996).

In fieldwork attempts at various UK Council Authorities in the London area between 2006 and 2008, I failed to find that governmental bundling of

processes increases equitable parental access to information on TNA. Based on a review of the amount of information available on homestudy costs, I concluded that a decrease in the transparency of individual process costs has the inverse effect of increasing the perception of cost intensity, particularly at the family level. During this fieldwork, I was refused the opportunity to speak in person with council social workers and was unable to receive permission to be a participant observer at parent informational meetings for stated reasons of parent confidentiality (Camden and Westminster Council Authorities, 2007). These routine local authority informational sessions, conducted on a biennial or triennial basis, are intended to provide interested parents with general process and cost information at the initial family planning and budgeting phases.

In support of this policy, many sources of information on TNA in the UK omit detailed cost information in an effort to enforce policies that restricting family access to contracting with non-governmental or foreign agents. I found in searches of publicly available databases published by the UK government DFSC or leading UK adoption NGO organizations such as the BAAF from 2006 to 2008 that UK parents obtain little data evaluate the upfront costs of TNA via online resources. Child adoptions completed overseas or using overseas agents, are not recognized under UK law. In order to legalize custody of a foreign child, parents must petition the UK court separately for child custody and citizenship (DCSF, 2007). Therefore, combined with the difficulty of deriving UK costs, prospective UK parents are able to access little information on options for adopting a foreign child through alternative methods.

This comparison of the costs required for family approval in the UK and the US shows that the UK government bundles the process costs of family approval in a manner that prohibits private contracting whereas the US permits individual contracting for approval steps by approved agents, comprised of both

independent agents as well as sub-contracted agents. The act of bundling TNA costs results in only a small difference in the estimated average practice costs. Yet, the grouping or de-coupling of process costs does impact the ability of parents to change the overall cost amount with a strategic use of knowledge or prevent costly errors through contracting with adoption process experts. Based on this analysis of *operational* costs, I argue that the policy of TNA cost bundling as evidenced in the UK actually reduces the transparency of TNA economies in ways that contribute directly to the perceived cost intensity of the practice that now pervade the cultural responses.

The Family Expense of Global Preferences and Necessary Child Selection Costs

The multi-faceted task of selecting a child from a particular country of origin constitutes a process that varies according to a child's location of origin. Child selection is both an essential component within all types of adoption as well as an area in which prospective TNA parents have great ability alter final costs. Child selection results in changes to the overall practice because countries that send children for adoption stipulate different types and levels of parental requirements that frequently result in cost variations. In distinction from the relatively static and administrative *baseline* costs as well as the potentially high *operational* homestudy assessment costs, child selection is an integral placement process that contains highly a discretionary aspect. As with other parental electives that result in cost increases or reductions, such as the number of children adopted, the physical health, race or ethnicity of the child etc., child selection also tailors the adoption to suit specific parental wishes. A few of the possible reasons for parental preference for particular location of origin include the cultural affinity to a location, the desire for cost reduction or a keen

humanitarian interest in the circumstances of the sending country. Based on the primarily qualitative change that child selection creates, I believe the selection of a child constitutes *preferential* cost because different elections do not jeopardize the placement of a child, but rather determine which child or children are to be placed.

Unlike the low level, static *baseline* administrative process costs or the controlled *operational* costs required for homestudy completion, the selection of a child's country of origin has a direct impact on the final placement cost to parents. The policies of countries sending children to UK and US families show that process costs can increase in three primary ways. The first way is that sending countries can pass on the costs of pre-adoption child care. Several sending countries in Asia and Africa currently require receiving parents to pay a separate fee for release of the child from state-run institutions (China Centre for Adoption Affairs, 2008). One of the most notable instances is the Chinese authority requirement for receipt of the equivalent of \$3,000 as a separate, non-negotiable fee.

A second way that sending country policies can increase parental costs is in more detailed homestudy assessments, frequently referred to as a 'dossier' (Alpert and O'Neill, 2005). For instance, the adoption of a Russian child mandates that parents forward extensive supplementary reports on their medical history, psychological fitness and a more exhaustive financial review to accompany their routine homestudy reports. In order to satisfy these requirements, parents are often required to consult with medical, legal and financial experts that specialize dossier preparation to avoid costs associated with re-filing if not accepted.

A third way that sending country policies can increase family costs is that parents are required to pay multiple filing fees due to errors or upon failure to comply with the policies of sending country authorities on local levels (Sylvan, 2004). As an example, countries such as Guatemala and Russia require at least a single visitation to the country of origin and attendance at a meeting with local adoption authorities to complete the child selection process. Parental failure to complete documents to the satisfaction of sending country authorities frequently requires re-payment for re-submission. In such cases, child placement may end up costing parents around \$55,000 (or £35,000) or more (USDS, 2008: BAAF, 2008)

In a practical sense, parents wishing to avoid excessive fees can elect to adopt a child from a sending country that requires negligible or reduced release fees (e.g. Guatemala, India, et al.). Yet, the costs that parents incur in the process of child selection serve several practical functions across the multiple scales of the TNA practice, in a similar manner to the costs of homestudy assessments. Perhaps most critically, the child selection process supports children's welfare by providing points at which the adoptability of a child as legally relinquished or an 'orphan', according to the UNCRC, is verified by authorities in the sending and receiving countries. In less apparent ways, the act of child selection constitutes an exercise of receiving parents' civil liberties in ways that support the national sovereignty interests of receiving countries such as the UK and US that have extended these rights. In this manner, child selection can be considered primarily a *preferential* cost, since increases correlate directly to parental discretion in selecting a child's location of origin. Therefore, parental knowledge about the costs routinely required by specific countries can directly influence required costs through informed selection.

In conclusion, the total parental cost of TNA is regulated on several levels. The international accords result in costs related to global child protection, the policies of receiving countries influence the costs of parental electives, and parents must often pay to satisfy stringent sending country requirements. My comparison of costs to US and UK parents suggests that national policies are a critical determiner of both the actual TNA costs. Underlying parental access is also the level of information about costs that is generally accessible to parents to support their decision making. While national policies dictate required minimum costs for changes in custody, immigration and naturalization, national family policies also have an effect on parental bottom line costs through policies that create a spectrum from cost bundling, service de-coupling or process incentivizing.

On one hand, the UK bundles TNA costs in ways that does not enable a level of cost transparency that is sufficient to with competitive service providers (i.e. UK approved voluntary agencies such as Norwood) further restricts various forms of TNA sub-contracting by law (2002). This evidence suggests that the impact of TNA service bundling creates a situation of cost opacity for parents, as evidenced in the UK case. This results in significant price increases for TNA practices to prospective UK parents. As shown in this study, the UK policy effectively transforms *operational* costs into *baseline* costs through cost structuring. Yet, seeing bundling as a means to foster a Keynesian-type of competition among families with similar interests in TNA raises interesting questions around the social benefit of the policy itself.

On one hand, the UK restrictions support the theories of Oliver Williamson (1968) on the impact of service bundling and consolidation on consumer price levels as well as the ideas of ML Burstein (1984) on the knowledge building consumer effect of bundling in the sales of culturally

progressive products. Both of these notions may actually improve the net social welfare by shifting a greater portion of the TNA cost burden to the receiving parents - and not the state - but also reducing the costs of service by eliminating competition. Countering Keynes, Williamson (1968) suggests that welfare tradeoffs may improve the quality of UK adoption services, even in situations where there is extreme demand on the side of the consumer. On the other hand, the reduction in the number of parents who are eligible to receive this benefit may decrease in ways that deny the global population of children homes, although the needs of UK domestic children waiting to be adopted may improve. In the end, processes aimed at protecting the welfare of both parents and child adoptees may, in fact, cultivate desire for paid contracting. Increasing the ability of parents to contract, may support the humanitarian aims of the Hague Convention and improve the ability of parents to satisfy reproductive preferences and needs at lower cost levels.

US Tax Exclusions and Subsidies of TNA and National Incentives for Family Humanitarianism

Although national government assistance for families electing for TNA through tax exemptions, exclusions and paid family leave are not a cost type *per se*, these provisions offer families an opportunity to realize a substantial reduction in total reproductive costs. In the US, Tax benefits have been extended only recently to families who have been created through TNA. Under the laws passed in the 2000s under the US *Family Welfare Act*, specifically the *Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16: HR1836, Title II*, adopters can claim their adoption costs as a financial loss on their annual federal income tax filings. Under these provisions, parents may claim up to \$10,000 in justified adoption expenses and spread the loss across two years of tax reporting

(with the last year being the year in which placement is finalized). Literally, the US tax exemptions reimburses parents for almost half of the estimated 2006 TNA expenses, which averaged between \$20,000 and \$23,000 per child but which may extend to as much as \$35,000 (Chou, Browne and Kirkaldy, 2007). For families adopting children with 'special needs' (i.e. children with physical or emotional disabilities), the US government provides an additional tax credit of \$10,000. The *Reconciliation Act* restricts access to government family development assistance for high-income families, beginning with those making over \$150,000 per year. The measure also does not extend benefits to adoptions by kin but does include foster, domestic child and intercountry adoptions.

In addition to US federal tax exemptions, the US has permitted employer tax exclusions for providing affordable health care to families since the *United States Small Business Job Protection Act of 1996* (H.R. 3448, Public Law No. 104-188). Under the more lenient *United States Economic Growth and Tax Relief Reconciliation Act of 2001* (Pub. L. No. 107-16, 115 Stat. 38, June 7, 2001), exemptions takes the form of an 'employer-provided child care credit' for up to 25% of the 'qualified child care expenditures' up to \$150,000 total claim (*US Reconciliation Act*, §45F (a)1 and 2). While employer credits are available only to parents with employers that meet US requirements, this assistance can be obtained in addition to the tax reimbursements provided by the US federal government through the tax exclusion scheme. In contrast to the UK, the US government assistance available to prospective TNA parents has risen significantly over the past decade but still does not meet the levels available to US parents. Together, the generous US tax credit allowances and employer exclusion awards likely contributed to the national practice patterns in three ways. First, the tax subsidies may have caused the dramatic escalation in the numbers of TNA adoptions to US parents throughout the early to mid-2000s. Second, the US tax credits provided parents with an economic incentive to consider TNA and other forms of adoption

routinely precluded from the assistance that insurance coverage routinely includes. Third, the US regulation created greater parity in the costs of several reproductive methods that further supported the national stance towards increasing the reproductive contracting license of parents.

In summation, this cost typology analysed key TNA processes as key cost generating areas in this modern method of reproduction. This study further looked into the scales at which these processes are organized as a factor influencing the cost levels required of families. Although TNA costs for individual families may vary considerably for many reasons, this examination suggested strongly that UK and US TNA costs are consistent overall, even though the cross-method survey of costs indicates that the cost structure of each modern method remains distinct. Most critically, this typology suggested that national policies regulating family assistance levels have a significant impact on family expenditure levels. Even further, national policies influence the overall costs by altering the manner in which parents incur reproductive costs and the ability for parents to evaluate among similar reproductive options.

This typology suggested that TNA cost control is most apparent and highest for costs regarded as discretionary within the UK and US cultures, although families may actually be required to pay for these processes before a child receives placement. For parents in the UK, the government policy reduces the potential for parents to reduce costs in required *operational* categories through social service bundling determined at the national level. In direct contrast, US parents have a greater ability to reduce their costs because national family policies enable greater reproductive contracting freedoms and then reduce overall costs through tax exclusions and employer benefits extended to TNA receiving families. In effect, I argue that the US policy has directly supported the growth in the TNA practice since the UNCRC in 1989. The US policy financially

subsidizes TNA through tax exemptions and employer credits in ways that offset family costs for discretionary processes. In contrast, both the UK and the US the *baseline* costs remain distinctly low, regardless of fluctuations in TNA costs occurring in preferential cost areas.

In the end, this study indicated that cost transparency supports a corresponding increase in parental cost-saving knowledge about TNA contracting. TNA costs become more transparent when the process costs are separated and considered under national law to be independent, rather than grouped and non-negotiable. While national policies that result in cost opacity constitute a *de facto* deterrent to parental interest in TNA, I believe it also permits the circulation of uncritical or inaccurate renderings of the practice and families who elect to pursue this method of reproduction. The findings of this typology indicated that national policies that increase parental avenues for cost control support practice affordability and may even improve the accuracy of cost intensity perceptions. I accept that families now must strategically approach their family building activities based on monetary costs and belief systems. In both instances, their knowledge of costs and processes supports family reproductive decision making and may be a beneficial and forward-thinking manner for receiving countries to promote equity in domestic family building in an effort to respond more effectively to chronic infertility pandemics. Such policies would beneficially coordinate family building support across various methods (Ziebe and Devroey, 2008) and possibly support the development of sensitive multinational strategies for regulation of international reproductive service markets (Malloy, 2003).

Receiving Family Political Economies and Multi-Scaled Utility and Altruism

In spite of evidence that all modern reproductive practices require families to engage in multiple economic activities in order to obtain a child, family building is not routinely considered in either the UK or the US to be a complex economic activity. Economically developed receiving countries such as these tenaciously hold to traditional notions that strictly separate family building and economics. Assessing economic behaviour from outside of the receiving families, the obvious and less apparent cost-generating processes of the practice may appear to transgressively blend commercial exchanges with intimate acts. Yet, families are the location of reproductive decision making in which these elements co-exist.

In support of this notion, I note a recent increase in the popularity of print and online how-to manuals for several reproductive practices and fertility treatment funding. For instance, one recent publication entitled *Budgeting for infertility: how to bring home a baby without breaking the bank*, advises parents on a comprehensive range of cost-cutting tactics. These pointers are listed in chapter headings such as 'So Many Choices: Start a Treatment Plan', 'Broaden Your Horizons: Travel for Treatment', 'Track Down Affordable Fertility Drugs', 'Don't Settle for No, Be Your Own Advocate' and even 'Don't End Up Broke: Understand Your Financing Options' (2009). Another notable publication in this genre is *Fertility and Infertility for Dummies* (2007), which presents families highly user-friendly content in a format that mimics similar guides aimed at teaching a variety of unrelated tasks such as computer programming, business management, language learning and recreational crafts. In yet another iteration of resources to help parents finance reproduction, The Fertility Handbook (1991) presents parents with extensive and all-encompassing glossaries of reproductive

process terms and organizes information into a centralized, encyclopaedic reference.

All of these volumes are useful and have a common aim to provide parents lacking adequate personal support and unlimited household budgets, the information necessary for managing reproductive costs by applying their existing skill sets of material goods and services purchasing. I believe that the growth in this varied and useful category of informational works attests to the inaccessibility of detailed information on actual cost categories, as mentioned in the previous section. Yet, I also feel that the proliferation of these works represents an attempt by parents to access specific and accurate information on the costs through use of available skills and technologies.

The use of such information by families is counter-normative in many instances and, I believe, accounts for the concern. For instance, a 2006 study conducted by Money magazine, a major US based publisher of consumer and market trend news, compared the estimated expenditure of families for several different reproductive methods and found that many families fundamentally altered their decisions based on considerations of cost. The researchers found that some families, initially intending to complete routine single child adoptions, elected instead to adopt more than one child while others actively prioritized physically or mentally disabled 'special needs' children. Both multiple adopters and 'special needs' adopters indicated that their child preference was an effort to reduce the fees imposed by sending countries that routinely lower costs for children less likely to be adopted domestically. In other cases, parents elected to select children from sending countries with good records of process efficiency, based on obtaining reports, before decision making. The decision making patterns of families contracting for TNA clearly indicate that while differentiation among children may be culturally unacceptable, especially when

the practice is viewed altruistically, it increasingly constitutes an element of family building reality for parents whose desire for children outweighs their discretionary preferences (Caplin, 2006). Informed decision-making and process or product selection based on the likelihood of a particular level of provider satisfaction or eventual outcome is a common part of modern contracting for many processes such as health treatment decision-making and even the purchase of consumer goods. Yet, the use of process knowledge to inform reproductive decision-making in particular counters many cultural presumptions about the extent to which economics ought to dictate family development.

The appropriation of economic decision making skills developed by parents in the selection of non-reproductive services to support their kinship creation efforts is a much contested transfer of abilities. Social economist Viviana Zelizer (1985) describes this culturally disfavoured combination of economies and family building as a market-driven 'commercialization effect' that occurs alongside the 'sacralization effect' of child acquisition (p. 212-3), a phenomenon later abbreviated by Hutchinson as a linking of 'sacred' and 'profane' (1991, p. 213). As a result, the modern TNA practice brings together processes that are considered within receiving cultures to be mutually exclusive polarities. The blending of the intimate and the commercial in TNA not only undermines the authenticity of families built through this combination but also exposes the commercial transactions that are required to complete what has been historically thought by many in the UK and the US to be an altruistic or humanitarian act. Yet, parental appropriation of their economic management skills, developed outside of reproduction to support family development activities in the techniques suggested by many reference manuals, enables receiving families to develop into private spaces in which the economic and sentimental aspects of TNA can coexist. I argue, rather, that the faculty of contracting, negotiation and cost management developed by parents in other areas is an undervalued and

vital aspect of receiving family economic agency. The deft use of these consumer techniques within reproductive activities defies cultural conceptions, but contributes to the current proliferation of global reproductive service networks.

The coexistence of these culturally opposing notions of the personal and the commercial within TNA receiving families a characteristic of receiving family political economies that is unique and variously received within receiving cultures. An evaluation of TNA economies across multiple practice levels challenges the polarized characterizations of TNA, as depicted by Zelizer (1985), as primarily altruistic or wholly commodified, by affording a more accurate view of variations in global parental economic agency. I believe that given the reality of financially costly modern family building expenses it is a useful initial step, therefore, to look more closely at the political economies of TNA receiving families as uniquely and necessarily facultative component of the altruistic, utilitarian and preferential ends of family building.

Applying Becker's Principles of Microeconomics to Examine the Local Agency in the TNA Receiving Family Reproductive Behaviours

Unlike the majority of research in economic geography that focuses primarily on examinations of larger networks of global care systems, reproductive tourism (Sparr, 2006), economists across various sub disciplines have long assigned value to the varied range of evaluations necessary for families to conduct reproductive decision making. The area of economics that pertains most directly to this study of TNA are microeconomic theories first developed by Gary Becker (1976, 1981, 1992, 2004), later expanded upon in collaborative research with Barro (1988) on fertility economies with Murphy

(1988, 2003) on the growth and regulation of fertility markets, Becker et al. (1990) on human capital and national economic growth, and the work of legal economists Landes and Posner (1978) on the regulation of altruistic acts. Among these theorists, Becker was among the first economists to conceive of human reproduction as a set of family activities possessing a great and varied economic worth, whether measured on scales of the household or global service networks. Even with this work, little microeconomic research has specifically evaluated the skills uniquely required of TNA families, although their extensive consideration of family altruism and the closely related group of works dealing with child commodification does substantiate a more detailed exploration of receiving family political economies.

TNA as an Altruistic Form of Family Building

A key development within Becker's theories on family reproductive behaviour economics is that reproduction is an altruistic and non-rational act. My study of the required evaluative steps in the TNA process suggest that Becker's point bears out even more strongly in TNA families than those created through alternative methods. According to his general theory, Becker theorized that a child produces no immediate economic benefit to parent's investment of time, work and finances (1981). More importantly, parents do not expend resources for reproduction with the expectation of receiving remuneration that directly or equally compensates them for their level input (Becker and Murphy, 1988). To economists, this constitutes an irrational expenditure and an exception to the norm, whereas in other family economic activities the investors anticipate the realization of a return equal or greater to the labour put in (Landes and Posner, 1978). Out of this basis, come several important theories speak to correlating value of children to parental investment, the social utility of family

building and the presumed scale of family agency that underlies Becker's revaluation the economics of reproductive behaviour. Following an overview of these themes below, I will explore their application further in the review of dominant receiving family characterizations and family building narratives Chapter 7 that follows.

Applying Becker's theory on altruism to inform an analysis of TNA, I suggest that this practice may provide a benefit to parties within multiple scales and that families may interpret financial return to occur in non-monetary forms. Detailing his particular idea of altruism within the family, Becker states 'I believe that altruism is less common in market transactions and more common in families because altruism is less "efficient" in the market place and more "efficient" in families ... [I make the] assumption of altruism in families and the usual assumption of selfishness in the market place (1981, p.10). Speaking to this point, Becker's notion of reproductive economies and family altruistic behaviour helps explain the reason that TNA appears to offend modern cultural notions around the value of children.

In a similar manner to Becker, Zelizer's early studies on child objectification reflect on the evolution in cultural regard for children from what prevailed during the 18th and 19th century to now. In previous centuries, children had an economic value that depended upon the ability of the child to work for the financial support of the family (Zelizer, 1994). Yet, she argues that both the 19th century battles to prevent child labour abuses as well as the 1970s feminist critiques of the perceived exploitation of female and child populations forced a division between children and economic return that exists now (Melosh, 2002). As a result, most contemporary societies frown upon child labour to such a degree that any situations which equate children with their economic value now appear pre-determined and unequivocally static, although a main benefit of

children remains their expected material contribution as intestate heirs and caretakers for parents in later age (Parry and Gere, 2006).

Speaking further on this division between personal and economic activities, Zelizer refers to the modern resistance to valuing children as economically productive in any way as the 'expulsion of children from the "cash nexus"' (Zelizer, 1994, p. 18). She maintains that the 'expulsion' was a major cultural shift that fostered the current conceptual differentiation between economics and sentiment that Becker challenges, to a degree, in his thoughts on family altruism and reproductive utility. Based on her studies with families that indicated children often fail to provide a high rate of return for parental investment in reality, Zelizer claims that viewing children exclusively as 'investments' incorrectly presumes their economic potential. Given the evidence that children yield poor returns when regarded primarily as a long-term investment, Zelizer attributes the sentimental value of the child as the primary rationale for parental willingness to enter a financial 'loss' situation of family building.

Exploring the notion of non-quantified loss that Becker's notion family altruism suggests, I examine a second aspect of Becker's ideas on altruism where family actions and global benefit may connect. Economist Oded Stark (1995) articulates an understanding of familial logic around altruism as fluctuating in response to changing extra-familial circumstances. He suggests that family values are a rationale for electing to do acts with non-monetary returns. Stark claims that when the family recipients' income lowers,

'donors will transfer more if the transfers are motivated by altruism, but less if the transfer is motivated by exchange. The reasoning is that the recipient's *capacity* to provide a future service – for example, insurance – should the donor fall on hard times, is weakened. A lower (expected) value is matched by a lower price (transfer). What this

argument seems to ignore is the possible effect of transfers on the *willingness* to provide a service' (1995, p. 6)

What this suggests is that families gain economic agency through a willingness to invest and provide a service to others outside the family, such as the population of needy children. He further maintains that an increase in expenditure levels (possibly resulting from a decline in the recipient's income), unlike rationalist macroeconomic systems, would likely cause a positive enhancement in the recipient's *will* to offer support in the future. Stark sets forth the possibility that even altruistic family behaviours can self-interested, much like any other act. Relating Stark's notion to TNA, adoption constitutes a form of 'insurance' for parents in response to an otherwise unknown future without the ability to reproduce. In addition to this, families that hold belief systems which place a very high value on activities, including family building, that are global in scope will willingly pursue TNA as altruistic global service that requires self-interested local reproductive activities to complete.

Another of Becker's pioneering theories explicates the contribution of family economic activities within broader markets. He suggests the agency of families in performing socially utilitarian acts on national and global scales. In this instance, the practice of TNA can be understood as a socially useful act on multiple scales. On one level, family reproduction reproduces the global economic geography of national welfare systems and reproductive service markets to connect globally disparate areas (Franklin, 1997). Seen this way, TNA receiving families contribute to a utilitarian remedy for deficiencies in sending country abilities to provide adequate social welfare support for their children and families in fulfilment of the Hague's subsidiary rule.

On another level, there is a complexity of needs served by TNA. Some are self-interested in ways that contribute to altruistic or utilitarian ends for societies. Regarding the utility of TNA to receiving nations, I cite the trend in the UK and US away from having more children to having children with more human capital, meaning children who are healthier and better educated. This is what economists term a substitution of child quality for child quantity i.e. the average number of children per family within a population. Speaking to the notion of reproductive utility, Becker, (1992), Becker and Murphy (2000) and demographer Peter Selman (2000) have independently argued that (in)fertility is the primary reason for parental interest in TNA. In difference with Peter Selman (2000) et al., I believe that the altruistic component of TNA prevents the conclusion that parents are motivated to contracting for TNA primarily for reasons of medical infertility. While medical fertility is a commonly cited reason parents consider TNA, I argue that parental reasons are far more diverse, concurrent, and complex, based on my agreement with Becker's general assertion that family belief systems trump rational decision making, especially within the area of reproduction.

Viewed more theoretically, Becker's notion suggests that receiving families have what Law and Hetherington (2000) posit as a 'heterogeneous quality' that is produced through the various economies required for modern family building. For instance, the increased use of technology within fertility treatments, contract communications and various required parental or child transportation challenges the presumed distinction between familial and other more overtly economic expenditures. Examining this notion further, the receiving families and even the practice of TNA itself, force a connection in families of elements of materiality, information, spatiality and capitalism that are currently fragmented. Therefore, receiving families are economically heterogeneous systems, which Law and Heatherington describe as having 'no

fixed distinctions between (say) humans and non-humans, or between subjects and objects. Instead, effects – including objects, subjects and knowledge – are all produced’ (2000, p. 47). Stated alternatively, Zelizer highlights the inherent fluidity in the ‘semiotics of materiality’ around family building economies. Such a level of economic complexity is seldom associated with TNA receiving families and, as suggested by Parry and Gere (2006), I concur that receiving families are spaces of ontological value about reproduction. Yet, this reality is now overlooked within most depictions of receiving families in either the US or the UK.

The recent increase in the economic instability of families residing in the UK and US, beginning in the fall of 2007, raises practical considerations about the limits to individual capabilities to contribute towards extra-familial and global altruistic aims. In tandem with a review of changes in the method of governance that are also in flux, the response of prospective parents to TNA during and after this period will likely provide ample data for further empirical research to test the notions of Stark and Becker around family altruism. In particular, I take up Stark’s conclusion that families will continue to perform altruistic acts such as TNA even in periods when their ability to support globally scaled humanitarian efforts is drastically reduced. He theorizes that if the ‘donor is aware of this link between his *behaviour* and the recipient’s *preferences* and if a stronger propensity more than offsets a weakened ability, it could well be in the donor’s interest, in his sequential exchange to continue to transfer the same amount’ (Stark, 1995 p. 6). Applied to the current economic circumstances and the ongoing level of children’s needs, Stark suggests that the individual perception of childrens’ needs may drive parental interest and override cultural challenges to the practice or a quantitative review of financial means. While this conclusion may remain true for some prospective parents, I also believe that any shifts in UK or US

family assistance policies for TNA as well as reproductive alternatives to TNA will also play a major role in determining the veracity of this hypothesis.

Can Local Economic Agency plus Family Building Choice Equal More than Commodified Families

Admittedly, to suggest that family building costs can or are controlled and managed affronts the prevailing assumption in the UK and US that family decision-making rests solely on emotions and desires. Although international legal standards set forth the proposition that the economic reality of TNA must not compromise decisions aimed at ensuring the 'best interests of the child', the practice reality is very different. In actuality, the most critical factors in child selection – which involve the number of children to be adopted, the countries of origin, the desired placement speed, the overall health of the adoptee, etc. - frequently include concerns outside of those that can be directly attributed to the perceived material or emotional needs of the adoptee. Some concerns about children's welfare needs satisfy the interests and beliefs of receiving culture members as much as the needs of the children.

As Elizabeth Hirschman presaged, in an early 1990s examination of cultural responses to reproductive contracting costs, the economics of family building are assigned a value along a continuum of positive 'sacred' to negative 'profane' activities (1991). Hirschman claimed that the perceived social value of a family activity, i.e. love, kinship, protection, etc. was a more critical component in value assignment than actual monetary or personal value. She critically observes that 'profane' family activities seldom transform into 'sacred' activities, although multiple activities within a single category are interchangeable.

Applying Hirschman's depiction to an assessment of receiving family political economies supports the conclusion that family building in the UK and the US is regarded a sacred activity. However, the 'sale' of a child is 'profane' and perceived to be detrimental to family welfare. In this way, both cultures differentiate the act of family building from other family activities that revolve around commodity consumption or the objectification of children through targeted marketing.

Legal theorist Margaret Radin articulates a variation of Hirschman's theory of universal commodification that offers an alternative to the discourse polarities that dominate common conceptions of modern reproductive practice economies. Radin's notion also offers, in my view, a more accurate possible alternative to the current characterization of the TNA practice. Radin champions a notion of incomplete commodification, which obviates the economic morality that has developed around the conceptual poles of family and commercial. There are several elements to Radin's version that merit a more detailed review. First, and most broadly, she states that 'personal attributes, relations, and desired states of affairs are infused in the valuation of objects' (Radin, 1996, p. 8). Second, she separates the value of the objects from the person who participates in the action, whether or not the object is re-assigned a new cultural value. Lastly, she asserts that the object can be exchanged in the market, presumably without a cultural value but an individual value. Reading across these three points, Radin proposes a sense of market pervasiveness that is obligatory rather than optional. Yet, her view also espouses the more radical idea that the assigned value of objects can be managed in more equitable ways than currently evidenced. She suggests that acknowledging the necessity of economics would alter values around the activities. By understanding that economics are pervasive in all activities, she argues, would foster a type of parity. In turn, comparing among similarly economized activities would allow a closer correlation between societal

and individual values to develop, possibly in a manner that might involve more recognition of social utility and altruistic contributions made at all scales.

In contrast to Radin, Hirschman argues that many attempts to re-assign contracted and for-cost 'profane' reproductive costs as 'sacred' forms of non-commodified kinship building often fail. She specifically notes that many family development types such as IVF and surrogacy that were once 'novel' upon introduction, were also assigned the cultural value of 'profane' because of the transparency of practice economics. Extending this further, Hirschman compares family building to related commercial transactions that now occur with markets for biological materials, body parts and biological by-products of reproductive processes. In comparison to the commodification of biological materials within non-reproductive processes, Hirschman claims the absence of consistency in the ethics of reproductive markets, specifically those that impose distinctions between markets for fully developed babies and biological parts (1991, p. 364). She notes that while some marketing of biological materials is highly contested, such as gametes, other areas have received less cultural criticism, as in the case of donated organs. To this point, I counter Hirschman's underlying assumption that particular markets are universally contested or not, based on the national variations in the UK and US approach to regulation of TNA and the use of biological by products of IVF treatments.

Countering Hirschman's presumption of market mimicry in which the market for TNA is necessarily susceptible to reproduce cultural responses occurring within other areas of the larger reproductive market, Radin suggests that complete commodification and its opposite, both offend modern UK and US ideals of equality and market-inalienability. In Radin's words, any 'attempted non-commodification seems harmful as it is practiced in our world' (p. 134). I concur with this statement and further argue that it is now a practice reality for

virtually every modern reproductive method. Radin also maintains that applying the concept of 'incomplete commodification' to families could resolve the differences between the starkly polarised dichotomy of commodity and altruism. I agree with her argument that universal recognition of Becker's realization about the economic intensity of family building has an inherent social value.

Overall, Radin's implies that a full commodification of some forms of human sexual activities may not be culturally detrimental, although she questions whether the notion of child sales indicated by Lanes and Posner (1978) ought to be included in this. In considering the possibility of benign forms of child commodification, Radin suggests that all aspects of the child might become subject to monetary valuation in a way that harmfully defines them in terms of market rhetoric rather than individual criteria (1996, p. 138). She argues that 'baby-selling might undermine this belief [meaning, the acceptance of full commodification] because if wealth determined who gets a child, we would know that the adoptive parents valued the child as much as a Volvo but not as much as a Mercedes. If an explicit sum of money entered into the birth parent's decision to give the child up, then she would not as readily place the altruistic interpretation on her own motives. Again, however, if babies could be seen as incompletely commodified, in the sense of coexistent commodified and noncommodified internal rhetorical structures, the altruism might coexist with sales' (1996, p. 139). To an extent, her objection to baby-selling pertains the very idea that children could be successfully marketed. Exploring this notion further, Radin implies that the use of market rhetoric in areas of family economies results in an appropriation of economic notions and is a source of discomfort because, as she says, it 'tends to crystallize social worry – the worry about inappropriate commodification' (Radin, 1996, p.6). Her concern draws forth a culturally pervasive fear that, as Radin says, 'the nonmarket version of human beings

themselves will become impossible because of the power of market discourse to create (the domino effect)', 1996, p. 140). She argues that some market appropriations may subside, if viewed only in terms of anticipated utility or assured evaluation of consequences, such as whether it maximizes social welfare over individual benefit.

Her reason for qualifying the commodification of children is theoretical and potentially to practically regulate. She believes the parent-child relationship pertains to the construction of personal identities and occurs in the local context of family building. I believe that the value of family building differs across practice scales is grounded reality in many respects, a position implied in her theory of incomplete commodification. Yet, I also hold the view that the cultural appreciation of those differences is required by policy makers. I do not find that the current policy stances of the receiving countries examined here suggest that policymakers have this capability currently.

Looking at one possible extension of Radin's core notion of partial commodification, I question the failure of cultures to appreciate that modern reproductive methods are economically complex and literally commensurate in many respects. One possible response is that the economic similarity of reproductive practices does not readily translate across multiple practice scales, much like the intent of the practice varies across scales. Zelizer describes this as the schism between law and social life in which there is a dual problem of translation. To her, the social is negotiated continually and part of interpersonal interaction, whereas the law presumes intent to be static and consistent (2000, p. 835). There is a culturally habituated difference in the evaluations of altruism and utility across scale, yet the persistence of distinctions in the presumed meaning of economic activities across scales merits further consideration. The local and national views on altruism may be synonymous in semantics alone.

This is especially true since I feel that rhetorical terms, such as 'gift' or 'sale,' set up social expectations that must be re-negotiated through acts of individual family agency in order to generate actions through motivation or deterrence.

In a different manner than Radin, Zelizer also contests the paradigm that money changes social relations but asserts that not only does money not directly change social relationships but also that relationships rather than financial exchanges actually determine the 'appropriateness of the financial exchange' (2000, p. 823). Zelizer believes that the paradigm of separation between the social and the monetary cultivates a 'hostile worlds' view where strict separations are normalized through legal standards of process incommensurability. The inverse of separation, a 'nothing but' scenario, assumes commensurability in everything, following the theories of Richard Posner (1978) and Gary Becker (1981), is equally incorrect. At the core, Zelizer offers an alternative to both by stating money is subject to social differentiation. She supports her argument by claiming that disputes over monetary exchanges often involve disputes over payment forms and that social relationships are distinguished by the different forms of money that are exchanged. Zelizer then argues that judges and lawyers support the differentiation between interpersonal and monetary exchanges through categorical separation (2000, p. 819). Yet, similar to the impracticality of transposing impartial commodification into regulatory practice, I hesitate to believe that real life differentiation between the monetary and the social and the acceptance of legal norms that impose such a differentiation are possible.

Equitable Knowledge Production and Family Microeconomic Nationalities

My evaluation of TNA economics suggests that parental access to the TNA is not equitable across receiving countries in ways that characterize the political economies of receiving families more profoundly than cultural depictions allude. For example, the high and relatively invariant total costs and high levels of cost fluctuations in certain cost types preclude access to all but the population of the most able parents. Although UK and US governments officially support the equitable treatment of families formed through various methods, as in the US inclusion of TNA receiving families into federal tax credit schemes and the UK inclusion of parental benefits in the *United Kingdom Statutory Adoption Pay Act* (SAP) and *Statutory Adoption Leave* (SAL) Act provided under the *Employment Act of 2002*. This set of measures extends benefits to TNA receiving families and suggests the less obvious evaluative and decision-making skills required for consideration of this option. I argue here that evaluative economic skills are similar to those required for other types of family economic engagement in global markets. The ability of parents to re-appropriate skills of consumerism acquired in other commercial transactions to their reproductive planning is a critical characteristic in the political economies of the TNA receiving family population.

Economists Higgins and Smith (2002) develop several theories on the topic of child commodification that support further investigation of TNA receiving family political economies. These theorists note a prevalent belief within the UK that placement agencies such as those found in the US employ 'utilitarian' 'commercial techniques' of 'performance measurements' and the 'language of customer service'. While they cite the legalization of TNA as a contributing factor in this trend, they also question the 'unease produced by viewing the child as human "product"' akin to other forms of marketable goods (2002). They assert that marketing TNA fosters a potentially detrimental 'objectification and commodification of the child and prospective adopters'.

Higgins and Smith's assertions further Zygmunt Bauman's (1995) earlier critique of the manner in which technologically mediated marketing forces public engagement with the 'face' of the global population of needy children in what he regards as a negative, 'adiaphoric' or emotionally neutralizing process. Joining these theorists, N. Ballantyne (1996) assessed Internet mediated social work to conclude that the 'entrepreneurial feel to many of the US agencies is a stark reminder of the commercialisation of adoption in North America'. In summation of the UK opinion, these analysts find the US use of social marketing to be irresponsible, insensitive and eventually destructive to the moral, humanitarian aims of the practice. Their distinction reflects not only a consideration of morality but also of the understanding of morality within specific scales of the practice.

In contrast to the US efforts to depict children in ways that are intended to persuade prospective parents by evoking the sympathy, the ideas of Higgins Smith and Bauman appear aligned. Both assert that child specific advertising of adoptees generates an amoralizing distance between the viewer and the child while still providing details on selected aspects of the practice for public review, as in the UK program *Baby be mine* (Schroder, et al. 2006). This counters the US presumption that use of the words such as 'gift' will incite parental interest for outreach. They question the increasing use of targeted social marketing as a sales technique. Originally developed in the US, UK social welfare agencies have been pressed to employ these techniques to cultivate the interest of particular categories of prospective parents. The UK social service sector found that traditional outreach methods failed to reach potential parents that fit national policy requirements of suitability as in 'race matching', youth and sufficiently high socio-economic standing. Presumably attesting to the success of initial shifts in marketing, new methods of marketing have emerged with televised personal appeals of various looked-after or fostered UK children in the BBC

television series *Family Wanted* that aired in 2007. Although these marketing techniques were not developed to support social welfare programs, targeted marketing techniques are an effective tool for UK social service providers to attract the interest of available, culturally desirable, personally interested and fiscally able receiving families (Bennett and Barkensjo, 2005).

In their critique of techniques such as target marketing of prospective families, Higgins and Smith (2001) claim that the re-representation of the child through 'formulaic' marketing language and iconography connects the adoptee to his or her geographical location of origin and affirms inaccurate presumptions of the child's country of origin. In a manner that explicates Radin's notion that commodification reduces the specific identity of the child to a particular culturally held notion, Higgins and Smith argue that the child is depicted in relation to the location and perceived circumstances of origin rather than to the individual needs of the prospective family or the child (2001, p. 847). Similarly, the marketing reduces potential adopters to being locations with culturally assigned qualities in which the reassignment of the child's identity can occur i.e. 'best home', 'matching', 'suitable', etc. In both instances, these analysts set forth a persuasive argument that the most critical concepts in TNA marketing reproduce cultural perceptions of geographical difference rather than create families.

Exemplifying the potential for parents to apply various skill sets of consumerism within reproductive practices, Higgins and Smith also raise deeper questions around limits of localized adoption marketing. In a concluding argument to their work, they argue that 'technologies and language that are conventionally found in fast moving consumer goods have been transferred to the child adoption process in an attempt to realize the potential of child adoption' (2002, p. 848). They note an inevitable inequity in any attempt to

singularly regulate morality across various scales of highly commercialized and legislated practices, in what they term 'ill-defined' spaces. In place of a genuine experience, they fear that prescribed reactions to social conditions shaped by social marketing much like product marketing now guides consumer behavior in areas of commodity sales.

One possible meaning of the argument set forth by Higgins and Smith is that US social marketing threatens the social capital of UK receiving families. Theorists exploring the notion of social capital such Holland, Weeks and Gilles (2003) affirm the value of intimate parental decision making in terms of quantifiable costs, social networking aptitude and cultural symbolism. If social capital is understood to include the ability of specific skills and abilities to impact the real costs of intimate family activities such as in family development, the perceived threat of social marketing takes on new meaning.

Yet, Higgins and Smith also raise an interesting counterpoint that individual familiarity and cynicism about marketing and language can reduce its amoralizing effect. They acknowledge the ability of parents to become 'sophisticated analyzers of marketing methods' (p. 851). Stated another way, they suggest that parental reception to, and appropriate use of, marketing language is a product of a specific geo-cultural space and cultural morality. They further suggest that the use of cross-cultural social marketing also crosses boundaries of cultural morality in untenable ways. Similar to Radin, they portend that 'the bidding for the babies and the market transaction was used to exemplify both the commercial nature of US adoption and the dangers inherent in following a similar road in the UK' (p. 851). I find the notion of moral borders in social marketing to be impractical, even if marketing has a universal set of techniques that can be used to sell a broad range of products and services. Instead, I maintain that certain categories of US parents, as a result of

socioeconomic status, educational level, professional background and familiarity with marketing techniques in other commodity categories, may possess greater fluency in the skills necessary to -re-appropriate children. Viewed alternatively, the skill of economic evaluation provides parents with the ability develop a sense of personal locality and individual family in difference from the depersonalized, generalized and mass-marketed techniques and services. The evaluative capacities of receiving families are not universal and inborn nor are they confined parents residing in a particular receiving country. Conversely, receiving families use skill sets learned through increased experience in market participation and capacities that come from a particular type of background to create a unique family geography.

Conclusion: Survival of the Fittest

This quantitative and qualitative review of TNA receiving family economies indicates the confluence of TNA national policy positions and familial economic agency in creating the unique economic geography of this family development method. I have explored several specific critiques about the economic intensity of TNA issued by UK and US commentators that have been used to inform family policy development in each nation. In particular, I interrogated several key assumptions within the depiction of the TNA practice and the characterizations of receiving families by presenting findings from a detailed assessment of the required TNA costs incurred by receiving families. In the end, I found that although national practices are largely standardized, the national policies vary in areas that directly influence the ability to foresee or manage total reproductive costs. The findings of this quantitative study indicated that the UK and US national interpretations of the universal legal standard have resulted in practice cost structures and different levels of access to

information that is highly beneficial for reproductive strategy making by families.

In different ways, the UK and US national policies on reproduction perpetuate the notion that this practice is more economically intensive than alternative family building methods. Yet, national policies affect parental access to the practice in ways that, I found, are less apparent on the global level than in cost comparisons on local levels. For instance, the UK effectively hinders parental access to TNA by perpetuating cost opacity through policies that alter practice cost structures and bundle process costs. While UK cost bundling aims, in part, to improve the quality of social welfare services, this policy also results in higher, static type *baseline* costs by mandating parents reimburse the state for conducting required, costly and individualized processes of home approval. In sum, I argue that cost opacity is a product of UK policy since parents must remit a high level of mandatory costs and have fewer approved avenues through which to explore alternatives.

In contrast, the US enables parents more control over a wider range of contractible support services, yet the extension of family policy incentives has had a subsidizing effect on TNA because the policy artificially depresses the total family costs of TNA to a degree that the required sums match those of virtually every other reproductive method. Reading across these national scenarios, I maintain that family reproductive decision-making can no longer be regarded as an uncommodified family activity, as has been favoured throughout this century. On the other hand, I also believe that the alternative motives for TNA that include altruism and social utility are saturated with economic value equally as much as the overt reproductive economies assessed by Zelizer (1985), Spar (2006), Radin (1996) and Franklin (1997). My assessments of this chapter, both the quantitative as well as the qualitative components, verified many theories on

the existence of what I argue are 'entrenched' aspects of the reproductive health care industry, projected within microeconomic and social economic theory. The findings strongly support their work and the conclusion that TNA, much like all other modern reproductive practices, is a very economically intensive and diverse family activity for reasons undervalued within cultural characterizations. Rather, I believe that the study suggested instead that the cost and evaluative economies of family development through TNA are a reproduction of both national policy positions and cultural views on the practice.

Reconceptualising the discourse around political economies of receiving families demands, in my view, an acknowledgement of the actual degree of economic commensurability between family development practices at local and national levels. The fact that the perceived economic commensurability of reproduction differs across TNA scales demands more consideration of practice geographies beyond what currently exists within assessments of reproductive markets (Zelizer, 1985). This necessarily means limiting or even abandoning the continued conceptualization of TNA as solely an act of global humanitarianism and evolving a framework to allow TNA to be culturally valued for its social utility for multiple populations and nations.

As the recession may shrink the size of prospective receiving family budgets, such as the one beginning in December 2007, changes will occur in the ability of parents to maintain levels of discretionary and medical spending, even for families at higher socio-economic levels. The most recent estimates indicate that UK families and US families have reduced or put off reproductive therapies until later in their childbearing years. Accompanying these reductions in discretionary spending are added factors of high levels of unemployment, reductions in income through furloughs or loss of wages. On the public assistance side, the UK and US face severe cutbacks in family assistance

programs that will force new questions around whether nations can afford the costs of humanitarianism, particularly when those costs are incurred on local levels. The views of family altruism in the UK results in select restrictions in family humanitarianism that may challenge the equity of families created by different family development methods. Given the recessed economy, beginning in 2008, in which parents must face substantial family development costs, I affirm the value of continued efforts by receiving and sending countries to maintain equity in access to family development process knowledge, without incentivizing or restricting parental options. Ideally, any national policy changes need to articulate the realities of family building economic processes, support multinational decisions around the ethical use of reproductive technologies, and support equitable knowledge production in a diverse range of contracted reproductive services.

Situating the findings of this chapter within related explorations of family political economies evaluated areas outside of reproduction, I draw upon the notions of political geographer Martin Jones et al. (2008) who suggested political economy be understood as 'middle path'. Explained further, Jones, et al. suggest that family microeconomics and desires are inseparable and still vulnerable to international semiotics of family building, in a similar manner to Radin (1996) and Zelizer (2000). Applied to this chapter's understanding of the economic agency of receiving families within the global TNA market, I suggest that family protection is most effectively equitable and ethical with open access to process details. This calls less for an evolution in the existing link between family building and economics but recognition of the global political economies that already exist for this global family population. Not unlike Radin's argument for recognition of a partial commodification within family building, I believe this concept does account for the real absolute and relative monetary value of TNA and the multiple necessary processes of economic evaluation. In contrast

however, I am less concerned with the theoretical protection of individual identity than with the potential for new policies to perpetuate the current immature reliance on definitions of the practice that maintain a fictitious, mutually exclusive divide between economic engagement and family building.

In the end, throughout this chapter I argue that TNA has a national social utility and global economic value in excess of that evidenced on the local, familial scale. Based on a comparative study of cost and knowledge economies, between TNA and other similarly situated forms of technologically intensive global family building practices, I note the existence of a high but hitherto overlooked levels of commensurability across modern reproductive methods. Moreover, I argue that the premise of economic commensurability across a diverse class of reproductive practices supports a very valuable fact-based assessment of policy efficacy in the governance of global social welfare chains. This supposition also questions traditionally held distinctions between the economics of social work industries and the value of national social reproduction reflected in the separation between the political economies of families and the continuation of global service economies. It also challenges prevailing view that families lack the agency to contribute substantially to wider sectors of the social welfare service industry, on the assumption that the collective benefit of their family activities and expenditures are economically un-quantifiable or insignificant in sum.

Chapter 7

Re-Presenting Reproduction: Stretching the Boundaries of Family Kinship Geography in UK and US Cultures

Introduction: Tracing the Conceptual Evolution of TNA Receiving Families

The one question that always brings me up with a start is, "What is it like, having a family that is a miniature United Nations?" From our point of view, our family is no different from the average family, except that we probably have more fun because there are so many of us ... The fact that none of my children was actually born to me rarely enters my consciousness. After all, even a biologic newborn is not always what his parents expected or hoped for, and all parents who honestly want their children love each little newcomer for what he is. In the long run it doesn't seem to make any appreciable difference whether the baby arrives via the stork or a social worker. Indeed, when parents approach adoption not solely on the basis of their own wishes but also to meet the needs of a rejected child, the groundwork is laid for ties of love that can be, and often are, far stronger than in biologic families. (Helen Doss, 1949, p. 58-59)

In one of the earliest accounts of receiving family experiences, Methodist Minister Helen Doss takes up a more upbeat tone in her reflections on TNA than is evidenced in many contemporary practice reports. In the late 1940s, TNA receiving families were a statistical rarity and the Doss couple were among the first group of American families to build their families in this manner. The Doss family was additionally unique because of the uncommonly large number of children - 12 foreign-born, mixed-race orphans, from World War II ravaged countries in Northern Europe and East Asia. Their receipt of so many children makes them anomalous, even by today's standards, nevertheless, Doss' comments imply that the decision making processes of TNA families at that time

were substantially less complex and unambiguous than for families in the present day. Doss' remarks also speak to the culturally perceived difference between families formed by TNA and, what she termed, 'the average family' that remains an aspect of modern discourse on the practice. She notes that many viewed TNA receiving families as substantially different from families formed through other methods.

The processes required of UK and US parents to complete a TNA placement today differ considerably different than in the 1950s, validating the cultural notion that this practice has undergone a dramatic evolution. Such developments include the proliferation of genetic tests for parental verification and the emergence of adoption medicine sub-specialties, with experts capable of supporting parents remotely with child selection diagnoses of infant maladies that have been attributed to inadequate levels of pre-natal or neo-natal care (Alpert and O'Neil, 2005). Looking beyond these developments as merely indicating an increased reliance on technology within adoption, I believe these advances also indirectly measure and testify to the pervasive differences in the locations of origin of TNA receiving family members. The measures of geographic differences manifest on multiple scales and, more importantly for this work, are assigned a particular cultural value within each primary receiving cultures.

That said, the cultural responses to the intra-familial differences produced by the TNA method have varied widely among receiving nations. As evidence of cultural responses to one type of difference, I note that receiving country reports seldom explicitly state the value of 'racial' or 'genetic' differences within intercountry child placements. Irrespective of the response, both the UK and US maintain policies that distinguish between 'transracial' or 'transethnic' and same race placements through the inclusion of specific policy descriptors aimed at

conveying evaluations of this practice (as examined earlier in Chapter 5). This chapter is a review of the cultural discourse around the perceived differences of TNA receiving families. It focuses on an evaluation of the current depictions of receiving families that recur within the communications of the UK and the US receiving cultures. In this discourse review, I will specifically analyse the universal attribute of receiving family geographic difference, measured variously as a politically and personally meaningful proximity and as an undervalued factor in the distinct geography of this family group.

This investigation also looks into the potential inaccuracies in US and UK discourse content. Such an attempt to verify the discourse content around the TNA practice is well-warranted, based on evidence that prospective parents are heavily reliant upon published practice reports to base their initial reproductive decision making. As an example of the types of comparisons not supported by the current reporting format, I note that modern depictions of TNA and receiving families seldom draw out the commonalities that actually occur across families built through various methods. In my previous examinations of TNA economies and governance methods, I found that the practice of intercountry child adoption was as costly and as highly regulated as alternative methods, under many circumstances. I also found that the majority of TNA child placements did not involve legal or interpersonal complications (Alpert and O'Neill, 2005). Based on that evidence, TNA receiving families are, as Helen Doss stated above, 'no different than other families' in many respects. Yet, in direct contrast to Doss' tone of positive reflexivity, the sensationalized news headlines hid this reality. In contrast to these findings, I noticed that many reports only detailed the culturally contested aspects of TN and virtually eliminated any mention of the more mundane and uneventful aspects of most TNA placements. This disparity between the reports and the practice reality suggested the need for more

extensive study of both the content as well as the form of the cultural representations of TNA to determine the impact of these supposed biases.

The task of differentiating between fictional and valid accounts is not easy, since biases frequently colour the renderings of TNA and alter the cultural perceptions of the practice in ways that are difficult to measure. Complicating assessments of family realities further, I note that many TNA reports are indistinguishable from the polished advertisements of placement service providers or the dramatized presentations of adoption anomalies. For instance, many news reports circulating in the UK and the US press commonly begin with headlines such as the BBC News report of 'Madonna talks of "baby struggle"' (22 May 2008) or the UK Daily Mail's suggestive title 'Madonna's Mercy in hiding as furious family fight to keep father away' (11 April 2009). While these accounts are not completely counterfactual, the reported information is cloaked in, what human geographer Derek Gregory (1995) has termed, 'tropes' of modern communication. These tropes can be understood as stories in which the members of cultures can negotiate amongst themselves a common interpretive rendering of actual events. Often, the meanings of such tropes are conveyed indirectly, so that reported accounts do not speak to the actual likenesses between modern-day TNA receiving families and those of the 1940s families. In the end, I feel that some reporting styles exacerbate, rather than reduce, the levels of cultural ambivalence evidenced in the contemporary cultural discourse about this practice. The family descriptors are politicized with appropriation of legal rhetoric (Albury, 1999). Use of rhetorical terms to describe receiving families can be seen to subsequently politicize the intimate decisions and practices of families around accepted notions of normalcy (Britt, 2001). In this analysis of several key discourse modalities, I aim to interrogate some of the recurring presumptions about the quality of geographic difference that now underlies many culturally mediated depictions of receiving family kinships.

Arguably, the discourse around TNA contains many new components that were not a part of Doss's early commentary, such as the inclusion of oft-repeated rhetorical phrases and the strategic presentation of intimate family building details in areas such as financial budgeting, child preferences, etc (Alpert and O'Neil, 2005; Syvan, 2004). Many modern day reports recount family narratives in play-by-play segments in ways that are identical to the formats used for presentation of reality-based television programmes. This method of presenting practice facts, I believe, profoundly influences the evaluations of viewers and may even completely transform cultural understandings of the practice and views on TNA receiving families.

This constitutive agency of discourse modalities speaks to an element within the investigations of UK anthropologist Marilyn Strathern's (2000) on the social creation of modern family kinships. In her extensive studies of shifts in modern kinship norms (1992a) and the contribution of the law and technologies towards those changes (2005), Strathern concluded that the methods of communicating family stories are often identical to the reporting style used for fictionalized dramas and even sporting events. Strathern maintains that the use of reporting styles that sensationalize the practice as in recreational or fictionalized events, may result in the negative figuration of the reported subject. Such reporting slants also contribute to the cultural opinion of these families and the cultural status or category to which they are assigned. Most critically, she points out that the media generates cultural meaning, not only through selected content, but also through the levels of detail that presented within reports. Thus, an agency of the media is, as Strathern sums up, in the creation of a 'tyranny of transparency', communicated with the pretext of offering a 'benevolent or moral visibility' for media consumers (2005, p. 309). Taken as either a positive or

negative influence, this suggests a potential for media communications about families to be varied and significant in cultural impact.

Applying Strathern's notion of media agency to this assessment of TNA receiving family representations, I further note that the cultural understanding of receiving families is still unsettled, malleable and likely subject to modification, especially given the historic absence of widely accessible detailed information about TNA family building processes. After surveying several reporting formats, I believe that the overexposure of viewers to the intimate details of TNA family building may actually perpetuate the conceptual marginalization of this family type. These details may continue to distinguish this family type even as the practice gains more cultural legitimacy. Therefore, I posit that the presentational format is as important as the account content in determining the UK and US receiving family representations. I suggest that members of receiving cultures not only consume representations of TNA families, based on gazes that interpret the meaning of geographic differences, but also reproduce these depictions within national or personal responses to the practice (King, 2009; Bal, 1999).

Questions Framing the Review of Cultural Discourse Around TNA

For this chapter's evaluation, I will review the communications about the TNA practice as making up narratives that circulate in both the UK as well as the US. I will respond to the primary research question *what are the primary narratives that pervade the depictions of TNA family building in UK and US public discourse?* Taking Gregory's notion that political and economic agency contribute to particular geographies, this effort looks into the origins of these family narratives, to assess the validity of the dominant themes and to evaluate the

cultural agency of the family figurations contained within these recurring stories. Most critically, this study uniquely blends concepts from geographic and cultural memory studies. I review most intently the ideas within cultural memory studies that inform my exploration of geographic difference. Within this topical confine, I have drawn inspiration from the extensive work of Susannah Radstone and Catherine Hodgkin on 'regimes of memory' (2003), David Lowenthal's (1985a, 1985b) geographically-based studies of cultural nostalgia in the creation of landscapes of relationship, the power of economic agency to create memories (McDowell, 2000a) and Nicola King's evaluation of narratives in identity construction (2000). My approach to narrative evaluation follows the general work of Mieke Bal (1985) on modern narratology theory within visual cultures as well as her more focused studies (Bal et al. 1999) on the varied and valuable performances of cultural recall.

This cultural analysis aims to innovate study of TNA kinships through a consideration of the performed qualities of TNA family building, made up of both real processes and reflections on past experiences with the practice. In a study of the narratives that surround TNA family building, I test out Strathern's hypothesis that the tone and format of reports tacitly affirm specific themes of nostalgia, reclamation and loss within renderings of receiving family creation stories. To cite a striking example, I recall the phenomena produced by the global response of prospective parents (many of them residents of the UK and the US) who came forward to adopt presumed orphan children after the December 2004 Indian Ocean tsunami (Aglinby, 2005), the April 2008 Burmese cyclone (Johnson, 2008) and the Chinese earthquake in May 2008 (Koch and MacCleod, 2008). I suggest that many individuals that responded to these tragedies were enacting – whether consciously or unconsciously – globally pervasive family building narratives about engagements with needy and distant children. Such strong, widespread expressions of interest indicate, to me, the

substantial power of narrative content around TNA family building. I feel that culturally familiar stories of TNA may convey meanings, animate objective accounts and inspire a particular set of actions by an exceptionally large group of global actors. The value of interrogating these events as the 'work' of cultural memory regimes (Radstone and Hodgkin, 2003) is a means to evaluate the transformative agency of TNA that turns distant traumas into proximate realms of remedy. My study of the particular agency of memory teases out these, and other, aspects of cultural geography that have previously remained hidden.

My approach to research has a very practical intent. My focused evaluation of receiving family narratives enabled me to narrow extremely large number of reports about TNA receiving families to the most illustrative of those published within recent years. I drew from a group of highly celebrated TNA cares and current events for this representative case study analysis. My discussion of these incidents is an exploration of oft-repeated narratives about TNA receiving families, which I refer to throughout the chapter as the *Recycled Family*, the *Redemptive Family* and the *Bought Family*. In examining these storylines within UK and US cultural discourse, I trace the prevalence of recurring themes that appear in a variety of print, photographic, video and film accounts.

To render greater transparency to the agency of these three narratives, I have drawn from cultural memory studies to develop a more in-depth analysis of reported content on geographic difference and the cultural meaning assigned to TNA. I consider *what is the critical agency of remembering (or forgetting) in redrawing TNA family boundaries and identities?* This involves a consideration of multiple aspects of family geographies. First, I explore the premise that individual TNA receiving families are containers of and agents for UK and US cultural memories of the family. In this effort, I depict present-day acts of TNA

family construction, commonly viewed as isolated or localized incidents, as engaging with and perpetuating collective or culturally-based memories about families. Second, I explore the agency of memories to organize collective responses and generate specific views on the TNA practice. For this, I will first look at the memorial work performed by narratives of kinships relative to cultural ideals of humanitarianism, utility or sovereignty. To study the work performed by memory narratives within receiving cultures, I explicitly evaluate the significance of spatial difference in the unique identity of TNA receiving families. In addition to comparing the impact of discourse content and delivery in the broader UK and US cultures, I also look at the power of narratives to literally construct receiving families. In the end, I suggest that receiving cultures memorialize the family unit in various ways – whether through ritualized receiving family performances (Yngvesson, 2001, 2007), rhetorical devices or visual tropes (Briggs, 2003). I presume cultural memories to be powerful communicators of cultural values around families because memorialisation process incorporates interpretations of actual private familial experiences. There is a transformative aspect of memory making that allows cultures to eventually alter the significance of biological or locational differences among members. I focus a great deal of this chapter's analysis on this innovative exploration of cultural memory production and dissemination as a means to evidence the real notions of family 'place and displacement' that have been omitted from the legal rhetoric that pervades practice descriptions.

In contrast to existing studies of receiving family kinships, this study's focus on the agency of memory offers an original approach to evaluating family building activities performances that either affirm or transgress perceived family norms. Among the possible avenues to investigate kinships, I examine the presumed meaning of the descriptors often used to describe the TNA practice and explore alternatives that are less, geographically neutered terms. I use a

method of discourse analysis that differs from the methods of direct inquiry used extensively by other social science theorists including Howell (2003), Yngvesson (2007), Simon and Roorda (2007) and others. These studies primarily used open-ended methods of direct inquiry to investigate aspects of the receiving family experience that deal with interpersonal concerns of adoptee adjustment with receiving families (Howell, 2003), rituals of acculturation within receiving cultures (Yngvesson, 2007), and cultural responses to transracial placements (Simon and Roorda, 2007). In contrast with the approach taken by many researchers on evaluative methods, I feel strongly that most ethnographic methodologies that involve receiving families are actually closed-ended studies, although focus group research is commonly presumed to be open-ended and conducive to exploration of new issues (Byers, et al., 2002). Since the subject questions and responses normally use rhetoric terms to increase comprehension of the subject within the interview format and the examination of those terms is initiated by respondents, I believe that subject analysis may not necessarily result in an interrogation or clarification of the exact meaning of taken-for-granted terms, clichés or rhetorical descriptors.

In contrast to existing studies, my survey aims to evaluate qualities of receiving families that have not been mentioned directly in cultural communications and, therefore, are not readily recognizable. My research approach specifically interrogates cultural assumptions that convey interpretations of past family experiences within present discourse. I aim to interrogate the meanings assigned to this category of differences and, hopefully, arrest the perpetuation of ambiguous TNA practice representations (O'Brien and Zamostny, 2003). I use this new approach to cultural analysis to avoid indirectly and uncritically affirming the rhetoric and presumptions associated with routinely used terms appropriated from social work or legal contexts, but rather

explore these as morphed versions of individual experiences and real practice events (Friedlander, 2003).

This exploration of the memorial aspects of cultural discourse offers unique and effective means to evaluate previously obscured topics of geographic significance. For instance, this approach furthers a study of the cultural memory of TNA receiving families through, what cultural geographers Alison Blunt and Cheryl McEwan (2002) have called, a unique and critical spatial story of political and personal identity construction. My exploration of their notion within this chapter responds to a final research question of *how do those narratives contribute to the creation of a unique geography for TNA receiving families?* In tracing the three family narratives (the *Recycled Family*, the *Redemptive Family* and the *Bought Family*), I examine the challenges to cultural notions of traditional family kinships as varied performances, of both remembering as well as forgetting, designed to motivate the formation of TNA parent-child connections across disparities of location and culture.

The Geography of Cultural Discourse and the Representational Landscape of Modern TNA

Although discourse analysis has only recently been applied to a study of the cultural figuration of TNA receiving families, I have specifically used this method to examine clearly defined sets of cultural presumptions that found the particular perspectives on TNA within receiving cultures. Based on my survey of the global receiving family population in the initial chapter's study of receiving family demographics, I found that what I call *geographic difference* is a universal characteristic of this family type that varies in meaning. In this

chapter, I presume a meaning of *geographic difference* that is primarily limited to two primary concepts, which I will analyse in detail, although other meanings for this term may exist. Here, I focus examination on *geographic differences* produced by dissimilarities in the origins of family members. In fact, I believe that TNA receiving families residing in the UK and the US have a high level intra-familial diversity relative to traditional family norms, in which parents and children originate from the same geographic area. Yet, the acute cultural significance assigned to this rather banal attribute of receiving families is unique and merits exploration.

Investigating cultural reception to the indication of receiving family geographic difference, I observed a noticeable and surprising absence of commentary on the obvious differences in the origin of receiving family members. I presumed this to be an obvious and definitive aspect of receiving families. Yet, I found that many TNA descriptors omitted any explicit mention of the differences in the geography of receiving family members or receiving families. As a launching point for this chapter, I look further into the overall absence of references to the unique geographies of TNA receiving families as a means to launch further study of the indirect means through which the themes of geographic difference is actually is communicated.

I found that the majority of informational discourse on the TNA practice within in UK and US, instead explicitly addressing the notion of geographic difference, actually borrow terms from family law and social policy rhetoric that downplay this characteristic. The descriptive terms reduce or omit this real family attribute, in my view, and communicate biases about the practice that are readily perpetuated but difficult to examine directly. For instance, the legally derived term most frequently used to describe the kinship 'benefit' of TNA is the 'best interests' phrase itself (UNCRC). The simple word 'best' is also a

component of derivative terms, such as 'best practices' (Roby, 2007), a phrase often used to rank the work quality of social welfare authorities. Unlike the culturally appropriated use of descriptors with 'best', the language initially conveyed qualitative standards of care and encouraged progressive social tolerance by society of family diversities. The strategic use of legal rhetoric in cultural communications is not novel, by any means. Nevertheless, the specific notion of equity it aims to grant only extends to families that recognized and legitimated under the law (Holland, et al., 2003; Usher, 2006; BAAF, 2008). This does not include, for instance, a protection of interests for same-sex parents (Holland et al., 2003) or certain classes of immigrant parents (*Legal Immigration Family Equity Act of 2000*) in which the custodial or marriage rights of those unions are not recognized. In neither the international humanitarian law on discrimination (Lerner, 2003), the EU anti-discrimination policies (Ellis, 2005) nor the US equal protection laws (Lee, 2003) is geographic difference recognized as a legally substantive distinction for family groups or individuals. Since the law fails to recognize geographic difference as productive of material distinctions between individuals and their capacities as rights bearing citizens, any distinction between individuals on the basis of geographic difference is, therefore, perceived to be potentially discriminatory in social and legal contexts.

Commenting on the function of the law in prompting social evolution in certain areas, Barbara Yngvesson (2007) found that the law has great potency in constructing not only families but also setting out cultural ideals about families. In her research on connection between Swedish/Ethiopian adoptees and their families of origin, Yngvesson concluded that the law 'confound[s] ... any sense of what a biological family (or native land) might naturally be' (2007, p. 521). While I agree with Yngvesson's premise about the overall influence of the law on social interpretations, I take exception to her assumption that legal rhetoric can completely erase apparent differences, still recognized in culture. I believe the

law has a very limited short-term ability to eradicate traditional norms. Although furthering a specific legal intent, the inclusion of policy rhetoric in popular discourse suggests alternative conceptions of cultural or geographic differences. Read one way, the non-recognition of family geographic difference ensures equity in the application of policies by eliminating factor as a possible basis for discrimination. Yet, read another way, the non-recognition of geographic difference is untruthful and counterfactual. In contrast to the assumption that the omission of explicit reference to differences will erase negative views of those differences, I argue that the multiple geographic differences of TNA receiving families are culturally significant, even if not explicitly recognized under the law or popular discourse.

My review of cultural accounts, most often disseminated to provide information about the TNA practice and TNA receiving families to UK and US audiences, indicated several areas of presentational bias. I have elected to focus my analysis on an examination of content biases that pertain to concepts of cultural memory (Radstone and Hodgkin, 2003; 2006). In one area, I explore the general notion that language links present actors to politicized memories in ways that generate subjectivity. I draw this notion from postcolonial theorist Ania Loomba (1998) in her statement that 'language is seen to *construct* the subject. Perhaps the most radical result of these interconnecting but diverse ways of thinking about language was that no human utterance could be seen as innocent. Any set of words could be analysed to reveal not just an individual but a historical consciousness at work' (p. 37). Looking at another area of memory, I investigate reporting biases on TNA as a form of legally-based memory 'erasure' of family geographic difference, based on the studies of post-modern cultural critic and memory researcher Andreas Huyssen (1995). Borrowing theories from Loomba and Huyssen on the politicized manipulation of cultural memories, I

suggest that geographic differences are a 'forgotten' but ever-present aspect of cultural representations of the practice that merit more detailed study.

There is a particular potency to cultural discourse because it not only disseminates information but also communicates collectively generated meaning around attributes such as geographic difference. The facility of communications, however, are possible only when specific cultural memories give context to interpretations or group responses, such as after the Southeast Asian disasters. Therefore, I assume, as summed up geographers Trevor Barnes and James Duncan that 'the broader point is that when we "tell it like it is" we are also "telling it like we are"' (1992, p. 3). Barnes and Duncan (1992) go on to further detail their view on the intimacy of language and the perception of geographic difference. They add that 'rhetorical devices are central to conveying meaning. They are the means by which we persuade our audience' (1992, p. 4), indicating the agency of words to shape what could be conceived of as a spatial identity for the subject of speech or the speaker. One example of spatial identity that draws from a collective interpretation of the past might include notions by Derek Gregory on the capacity of discourse to convey complexity within narrative tropes (1989, p. 89), by Denis Cosgrove and Stephen Daniels (1988) on iconographic or symbolic landscapes, and by historians James Clifford and George Marcus (1986) on the inherent, and often tenacious, partiality of political narratives that are set forth as objective reality.

Cultural narratives, variously termed as storytelling, are one mode of discourse in which elements of the interpreted past and present cultural experience come together. Speaking to one aspect of the geographic significance narratives hold, Barnes and Duncan (1992) assert that language, whether textual, conversational or rhetorical in form (e.g. metaphors, similes, etc.), generates a cognitive cultural landscapes. In their view, the landscapes created by narratives

are just as powerful as methods of visual potency of representations now commonly associated with news reporting of events and even changes in populations (1992, p. 2). They equate visual renderings and discourse by maintaining that both manipulate facts and that the resulting biases, rather than information alone, are an essential aspect of conveying cultural meaning about surroundings and situations.

Drawing on Barnes and Duncan's (1992) related notion of lived landscapes, I argue that cultural preferences for one narrative over another form a global landscape of reception to the practice, and possibly a landscape of family building norms (although this concept is outside the scope of this study). Not only do I believe that variations in discourse create a landscape of receptivity to TNA receiving families but also the content of the communications enables a study of family geographies in areas of relationship (Dyke and Kearns, 2006), interpersonal care and health care (Dyck, 2006) and a range of family-centered emotions (Rose, 2004). In sum, this analysis of informational discourse will invite a new consideration of memorial agency to existing cultural examinations of kinship geographies.

The Various 'Works' of Cultural Discourse

Analysing geographic difference as a meaningful, but non-discriminatory, aspect of the TNA practice is an almost impossible task to complete if only superficially surveying public discourse. An in-depth review of cultural perceptions about TNA families in the UK and the US requires increased attentiveness to the recurrence of certain descriptors. These terms are conveyors of knowledge about TNA practice, pursuant to the writings of French, post-

structuralist theorist Michel Foucault (2006) on the genealogies of discourse and the archaeologies of knowledge that link present political knowledge to past experiences, psychoanalytic theorist Jacques Lacan (Lacan and Žižek, 2002) on the connection between language uptake and assumption of rules, linguist Ferdinand Saussure (2006) on the dual historical and descriptive nature of language and feminist theorist Julia Kristeva (Kristeva and Moi, 1986) on the unspoken cultural semiotics involved in shared cultural meanings. For this study, I particularly singled out Foucaudian valorization of the rhetorical technique of repetition, because of its frequent use in storytelling for TNA family building. In addition to repetition, I also draw upon Coutin and Ynvenesson's (2003) point that laws are a method of knowledge production and aid in cultural explanation of norms and behaviours.

One of the most fundamental functions of memory is instruction, such as the depiction of TNA receiving families within categories of educational materials. Most educational material, while routinely considered to provide information for future professional and community actions, is also evaluative of cultural remembering. Educational texts prioritize culturally valued conceptions of family traditions in a similar manner to other discourse modalities, such as oral histories (e.g. Perks and Thompson, 1998) that aim to benefit cultures more broadly. A review of empirical work on the representation of TNA texts aimed at public education provides insight into the construction of memories around these families. Although the narratives of receiving families are presumed to contain biases, I notice also that the presentational structure of informational works also permits an exploration of cultural meaning, emphases and omissions within cultural renderings.

In one of the few reviews of the recent adoption practice accounts within professional education material, sociologist Allen Fisher (2003) found

proportionately little information on adoption as a family building method in college-level family sociology texts. His research on this absence was premised on the belief that the absence of sociological studies on adoption perpetuated existing cultural 'stigmas' attached to this family building by prospective families. Fisher (2003) surmised that an increase in scholarly studies aimed at verifying practice benefits and facts would increase the level of informed family building decision making. For his study, Fisher (2003) analysed adoption as a method of family development within 21 texts and 16 readers on families and marriage. He found that the majority of instructional coverage on adoption was negative in tone, even though the US culture widely approves of this practice to a greater degree than the UK culture. His survey also evaluated the extent to which information used for training social work professionals treated adoption topics relative to either the statistical incidence of the practice in the US or the level of exposure adoption received in non-scholarly discourse.

Additionally, Fisher (2003) reviewed the extent to which the sociological texts dealt with topics that frequently appeared within the current media discourse on TNA. The nine topical areas Fisher considered to evaluate the comprehensiveness of the scholarly texts were: behavioural and psychological problems among adoptees, restrictions on who can adopt, unavailability of healthy children, high costs, legal problems, adoption stigma, ideological and ethical problems, excessive bureaucracy and fraud, long waits, damage to the child and unknown genetic conditions, and other negative associations with adoption (such as incidents of adoption by abusive parents, or associations between adoption and neglect). In a primary conclusion, Fischer found that the incidence of negative depictions of adoption occurred across all nine of the topical areas. Within this, he noted that studies examining the success of international adoptions yielded less positive findings overall, although data contained in these reports suggested positive family experiences with subjects.

He noted that the overall impression of TNA was negative, specifically due to the repeated mention of difficulties with adoptee adjustment, the fear of negative birth circumstances for adoptees and the high level of inconsistencies in sending country policies (2005, p. 350).

In spite of the findings of existing studies and the proliferation of the practice within receiving countries such as the US, Fischer found that cultural views on adoption had a 50% greater likelihood to be negative than positive. One reason for this negative bias, he conjectured, was that sociologists and other scholars failed to consider that more detailed studies of adoption might counter cultural stigmas rather than perpetuate negative impressions. He further surmised that the omission of any evaluation of the more culturally sensitive areas of the practice have a similarly negative effect. Fisher's study did not explicitly consider the varied intent of the TNA accounts studied to promote humanitarianism or to articulate a response to conditions of infertility, for example, nor did he examine the discourse themes as constitutive of family narratives, as will be explored here.

In comparison, I found that discourse modalities that aimed to inform non-academic audiences (i.e. audiences with a lower level of familiarity with theoretical or statistical aspects of adoption) also contained presentational biases similar to scholarly texts. In a recent survey of major US network coverage of families created by TNA between 1988 and 2001, Kline et al. (2006) found that international adoption was portrayed with greater frequency than its incidence in the US during the same period. Further, they found that figuration of the TNA practice within popular and news media featured aspects of the practice that were extraordinary, contentious or norm-defying in nature more prominently than the mundane practice aspects. The most frequently repeated topics include the emotional and identity difficulties of adoptees or the positive

experiences of adoptive families. Some surveys reported inflated adoptee adjustment issues and positive family reactions (Hollingsworth, 2003; Waggenspack, 1998). Kline et al. observed that the network news accounts emphasized adoptions that contained special elements such as international adoptions, adoptions reliant on the Internet or the adoption of children with special needs. Thus, while 46.2% of the news reports on adoption during that period featured domestic adoptions, an almost equal percentage (an estimated 42.8%) featured international adoptions, although TNA comprises only 14% of all adoptions in the US. For other categories of adoptions, they found that adoptions relying on the Internet (for agency vetting, child selection or subcontracting for processes) were the primary focus of 24.3% of the news reports and special needs adoptions in 22.9%. Yet, kinship adoptions of all kinds, i.e. adoptions by stepparents or other biologically related adults, although constituting almost half of all adoptions, only constituted 2% of the news reports (2006, p. 492). In all of the surveys, Kline, et al. information about adoption found that the parties to any child adoption exposed at different levels and intensities. They found that adoptees were depicted negatively in only one quarter of the studies, but almost half of the news stories did not depict birth parents at all (2006, p. 495). Overall, their findings suggest that reports of adoption, while depicting culturally valuable differences among adoption types, not portray the more mundane or unproblematic aspects of adoptions in proportion to the contested or more complex practice areas.

These biases raise epistemological questions about the cultural figuration of families. Revisiting influence of reports raised by Goldstein, et al. (1973, 1979) about the possible negative impact of excessive external involvement in family activities, I now inquire whether reporting biases are inappropriate and detrimental to the formation of remembered private experiences (Radstone and Hodgkin, 2003). Kathryn Creedy (2003) from the US-based NGO InterNational

Council on Fertility Information Dissemination and US Communications studies theorist Beth Waggenpack (1998) are among the few researchers who have investigated the possible cultural and TNA practice impact of specifically negative reporting biases by the media. In reviews of the tone of TNA practice depictions, Creedy and Waggenpack, similar to Kline (2006) and Fisher (2003), found high levels of biases, omissions and exaggerations in informational accounts of TNA. All researchers commonly argued that the news should aim to report adoption in a more balanced manner. The insistence of researchers on reducing reporting biases is premised on the belief that a different emphasis on adoption in news reporting could arrest, if not reverse, lingering cultural stigmas about the practice. For instance, Kline, et al. (2006) wrote that 'it becomes even more important to include claims that refute stigma in these news stories' (p. 496). They suggested that news accounts of receiving families that focused primarily on everyday experiences were more attentive to the social contexts of parental decision making and resulted in the most highest educational content and balanced depiction (2006, p. 496). Yet, they fall short of arguing that reporting biases actually produce cultural stigmas around adoption. Instead, I believe these studies affirmed Strathern's (2005) theory that certain types of reporting formats may reduce reporting biases.

Granted, it is unrealistic to suggest that information on TNA must be completely accessible and impartial, especially with the number of accounts and varied viewpoints. Nevertheless, the findings of all these studies indicate that the cultural perceptions of the practice are heavily informed by the content, format and level of detail in reporting. I believe this influence is greater than presumed by many scholarly experts in the field. The volume of reports on adoption is sizeable in the UK and the US. Yet, in disagreement with Fisher's (2003) conclusion that there is a sizeable amount of research on international adoptions, I conversely believe that TNA lacks global comparative analyses, as

attempted in this project, that would enable practice characterizations that are more detailed, and possibly more objective and accurate. Even further, I note that although particular forms of media are aimed at informing the public or scholars about the adoption practice, these accounts are also valuable cultural communications for interpreting past and current events.

Narrating TNA Family Building to Create a Cultural Landscape of Family Memories

In this section, I take up an explicit content analysis of the themes that recur within depictions of TNA receiving families in the UK and the US. I explore the cultural depictions of receiving families as falling into one of three main family storylines – the *'Recycled' Family*, the *'Redemptive' Family* or the *'Bought' Family*. In tracing the prevalence of each narrative within TNA discourses in the UK and the US, I evaluate the ways in which distinct cultural memories of family and kinship building processes may fuel the divergence in modern day receiving country responses to the practice. I particularly emphasize the notion of culturally specific memories as a new method of analysing the emotional and relationship geographies of families.

Fundamentally, I view narratives as tools that cultures use to make sense of non-biologically related families. Adoption family narratives are what anthropologists such as Barbara Yngvesson have regarded as a 'reconfiguring of kinship' (1993, p. 576). She argues that these stories are not merely admonishments or prescriptions for change, directed at creating particular moral standard for receiving cultures. Rather, she suggests that the narratives contained within the law and culture can more subtly alter individual, civic and familial identities (Yngvesson, 2000, 2007; Yngvesson and Mahoney, 2001). She maintains that a story deliberately 'incorporates familiar dichotomies of Euro-American idiomatic kinship ("nature" versus "nurture"; "blood" versus "law"; "biogenetic" versus "adoptive" families) and reworks them in ways that have the potential to create new forms of consciousness as well as to transform everyday practices of relatedness' (1993, p. 576). Combining these theoretical elements, I see variations in the UK and US cultural memories about families. These memories, I believe, segment national family populations within a global

landscape of families produced by this method. I believe that the variations in the national, regional or federated state laws on TNA family building processes – as initially assessed in my review of practice governance – create subtle national variations in the population of TNA receiving families across the greater EU region or the US.

Investigating receiving families as national communities, I look at differences in the specific UK or US cultural values and ideologies that inform cultural reception to the elements of these narratives. In contrast to the intended audience or ‘consumer’ of informational content on TNA, which I surveyed briefly in the previous section, I argue that cultural narratives and stories that figure prominently in popular discourse about the practice are primarily aimed to convey or affirm cultural norms and values around the family. Recursively, family election for a particular reproductive method either performs or transgresses cultural narratives, especially through localized expressions of belief systems or the recall of shared experiences. I suggest here that receiving families are points where private and public memories meet. Cultural memory studies have included many studies of families. This emerging field looks at the very dynamic act of historical interpretation among groups. A key aspect of this interpretation is the agency of populations in shaping perceptions across scales to transform memories on individual and family (or private) memories as well as collective (or cultural) scales.

To evaluate the memorial content family geographies, I have applied several core principles from memory studies to a review of TNA. Most generally, many of my founding concepts about group memory systems emanate from the pioneering work of Maurice Halbwachs (in Halbwachs and Coser, 1992), who first conceived of the term ‘collective memories’, and the examinations of Radstone and Hodgkin (2003) on the political agency of group

memories. Both theorists acknowledge that discourse is a present collective cultural experience of receiving families that is a reflective negotiation of past events. Then, I draw notions by Forty and Küchler (1999) on the qualitative processes (or 'art') of memory that occur along a continuum between 'remembering' and 'forgetting', and Küchler and Melion (1991) on the representational power of memory more generally. In combination, they suggest that acts of memory necessarily involve a spatial dimension. For families, there are both cultural as well as private memories. Therefore, I believe that memories of an idealized family experience have the power to situate or establish receiving families within their receiving culture. They perform various culturally anticipated or instructed memory performances of objectification, mourning, re-animation, etc. within their exposed family building process. Not only are the ways of remembering varied in the general sense, such as in narrative content, but I also believe that the discourse format contributes to cultural meaning by repeatedly associating particular sets of private acts with public memories.

Applying specific concepts about cultural memory to the TNA circumstance, I suggest that the inextricable link between public and private acts also join multiple practice scales together. The connective qualities of memory further global 'best interests' ideals of change that are socially beneficial for multiple parties. Interpreted another way, the universalization of the 'best interests' standard language, as I will argue throughout this chapter, effectively inserts foreign elements of a mass culture within the local decision making processes in which family building takes place. Several postmodern thinkers have gone further to suggest that the insertion of the mass culture into the family space constitutes a negative commercialization or consumerization of humanity and human relations (Adorno, 1991; Barthes, 1981).

Exploring the specific cultural interpretation of the 'best interests' further, this standard is also descriptive of other transformations. Unlike the negative associations of commodification, the social ideal contained within this language can imply transcendence. In this understanding, the emotional pains commonly associated with ever present physical disparities in origin location, race, ethnicity, etc. between parents and children that cannot be remedied through legal means (Levinas, 1998; Potts and Selman, 1979; Selman 2000). In drawing out the purely humanitarian aspects of the TNA practice as memorial activities, then families electing for TNA can be depicted as 'remembering' global interests within their intimate and private activities. In a systemic fashion, the larger humanitarian aims support their private acts by conveying a sense of legitimacy for their local convictions and beliefs (Butler, 1995; Rowlands and Butler, 2007). In virtually all forms of adoption, the retelling of family narratives constitutes an evolutionary, social 'forgetting' of the past in a replacement of old norms (Connerton, 1989, 2009). Lastly, the extension of 'best interests' rhetoric within the family can function to provide a socially productive channel for private responses to loss or absence, brought on by medical conditions of infertility, racial injustice or any other conditions that have precipitated parental interest in this method (Hunt and McHale, 2008). In all of these interpretations, I highlight the consistent point that various acts of remembering both subjugate prospective parents but also recursively transform them in culturally significant ways.

Given that similar representations of TNA recur throughout multiple channels of cultural discourse and are virtually unchallenged as an extensive, objective presentation of facts, the three recurring TNA receiving family narratives can be understood as 'regimes of memory'. 'Regimes of memory', a term used by UK memory theorists Susannah Radstone and Catherine Hodgkin (2003), describes the 'work' of group memories involved in governance, especially those that reproduce past responses within the regulation of present

acts. Their descriptor presumes two qualities of memory that pertain directly to this examination and merit further explanation. The first presumption Radstone and Hodgkin set forth is in their introductory comments is that the work of memory is the 'production of subjectivity and of the public/private relation' (p. 1). This point speaks to the act of family building and the situation of the social unit of the family between the private and state or publicly mediated arenas. In a second supposition, which is a subtext for the entire study, they express that memories used for governance have a particularly political and necessarily non-neutral (i.e. non-static or objective) quality but are evolving or evolved. Stated another way, they suggest 'memory's meaning and purviews are historically varied and debatable' (p. 2). Thus, a critical quality of memory 'work', as they conceive it, is that remembering is varied and situated pursuant to political demands and performed by members of the culture to ensure continued inclusion. In combining elements of cultural specificity, memorial performance and governance, I conclude that memories of the family, especially when conveyed as narratives, are quasi-political regimes. The extent to which a particular culture takes up and disseminates a particular receiving family narrative can then be used to divide the global receiving family population into discreet areas.

Extending the notion of memory regimes to respond to differences in the themes of practice discourse, I argue that TNA receiving family and practice depictions gain cultural meaning when they are embedded in larger 'grand' or meta-narratives of family building, thus exemplifying related theories developed by Jean-François Lyotard (1984). I believe that family building narratives help transpose the presumed legal intent of international TNA governance, examined in my earlier review of the law, across the scales of practice jurisdiction. Yet, much like Lyotard (1985), who qualified his evaluation of grand narratives by suggesting that modern cultures impose localized 'phrase regimes' or rhetorical

interpretations of global ideals, I believe that cultures substitute grand ideologies on TNA with localized interpretations. Unlike Lyotard's suggestion that interpretive 'phrase regimes' are more conducive to production of justice and equity, I believe that the notion of 'separate but equal' remains a difficult concept to practically legislate (as overturned by US Supreme Court in the landmark *Plessy v. Ferguson*, 163 U.S. 537 (1896) ruling that barred the mandatory separation of public services by race).

If this is true, then I believe three dominant receiving family narratives exist to describe receiving family types in the UK and the US. They do impose notions about families but in a very, non-legal way. Interestingly, these three narratives are not exclusive to a particular receiving country, but rather they run concurrently and are appropriated by various groups within the international community to negotiate understandings of the practice. The multiple stories incite a recursive dialogue, where the moral values of receiving families are discussed relative to families formed alternatively. Viewed together, the UK and US receiving country discourse about these common stories form a meta-narrative around modern TNA family building. In effect, the particular type of humanitarianism that these stories contain also imposes a global 'regime of memory' around human rights. Contesting this meta-narrative, the geographic differences evidenced on local practice levels challenge the seamless global narrative 'regime' in an act of -what could be regarded as - memory transgression.

Understood as 'work', such narratives set forth exemplary, performative ideals for parents, that not only encourage their compliance with actual laws and policies but also their belief in extra-legal cultural values and ideologies. In this case, the workings of narratives have a profound effect on the cultural 'production' of concepts such as cultural memories. As Radstone and Hodgkins

suggest, 'all productions of memory are also productions of what memory is not, and that such inclusions and exclusions constitute a politics of memory discourses' (2003, p. 2). In this comment, the authors acknowledge the equal potency of memory inclusion and exclusion in conveying meaning about the memorial object (in this instance, the receiving families) within cultures. Understood in a political sense, Radstone and Hodgkin's theories open the possibility that governance requires that memory be expressed inversely, such as in acts of cultural 'forgetting'.

The historian Pierre Nora (1989), in his earlier work, examined various forms of memory manipulation in his studies of the political agency of amnesia, omission, erasure and other deliberate transgressions of past events. While the negation of memory can be regarded as negative on local scales and interpreted as the manipulation of private experiences for public aims, the cultivation of collective national memories can connote different, and often more positive, ends and uses (Anderson, 1991). Nora's notion offers the possibility that the cultivation of collectively interpreted memories, even more than private memories, have the potential to ameliorate conditions of extreme political upheaval or group suffering. Collective memories can foster and support the construction of new and more positive relationships between traumatic current events and the fulfilment broader ideologies such as social welfare improvements. Speaking to one aspect of this point, Nicola King (2000) specifically identifies the potentially 'therapeutic' benefit of re-assigning meaning to painful experiences on personal and cultural scales (p. 29). King posits that even within discourse modes aimed at communicating facts, there are still expressions of social ideology that contain private and public memories. The varied memorial quality of many communications, she implies, can tacitly inform individual expectations for benefit that are generally 'therapeutic' in nature, even in the absence of a clearly defined political or ideological agenda.

Assessed on the level of the individual, King's theory implies that the identities of cultural members take on the qualities of the collective ideology that are additional to any specific personal benefit that acceptance of the ideology may convey. The presumed 'therapeutic' benefit of TNA is a key motivator for individuals who believe in and perpetuate this particular type of culturally mediated memory.

Drawing pertinent themes from this rich base of cultural memory research, I will examine three TNA family building narratives as instances of cultural memory 'work'. Concisely stated, the '*Recycled*' Family, the '*Redemptive*' Family or the '*Bought*' Family depict TNA family creation as either an instructive, exemplary, or productive act. This narrative analysis aims to show that the story of TNA family creation is essential to shaping present day cultural perceptions of the practice as well as to relating present acts of family building to past norms of more localized family kinships.

The 'Recycled' Family

The first of the three receiving family narratives depicts these families as a type of *Recycled Family*. Drawing from ideological trends in contemporary material culture and traditional Anglo-American cultural philosophies, clustered around ideals of social utility, social economy and ecological conservationism, the *Recycled Family* is a modern day expression of several discreet elements. Many of the themes in the *Recycled Family* narrative come from ideals articulated by secular philosophers John Stuart Mill (1871), Deen K. Chatterjee (2004), Noam Chomsky et al. (2002), Chomsky and Foucault (2006) and others. The core attributes of the *Recycled Family* construction are ideas of human

resource reclamation, efficiency and an assignment of positive value to the mutual satisfaction of interests for collective benefit. On a local level of the family, this narrative challenges the assumption that biologically based kinships are more authentic than legally constructed families. It also implies that spatial proximity, whether genetic or physical, is not essential to kinship formation. On a cultural level, there is a high social benefit attributed with the creation of *Recycled Families* because their kinships serve not only local but also global needs in efficient ways and parallel other modern social campaigns towards material conservationism.

The celebrity actors, Angelina Jolie and Brad Pitt (also called the 'Jolie-Pitt' family) are one archetype of the multinational *Recycled Family*. Several aspects of this discourse of humanitarian individualism can be read into Brad Pitt's online blog entry stating, 'I have a hard time with morals. All I know is what feels right, what's more important to me is being honest about who you are. Morals I get a little hung up on' (Pitt, n.d.). Their family was formed by the adoption of children from different countries of origin. Their children Maddox (Cambodia), Zahara (Ethopia) and Pax (Vietnam) were adopted from various countries, in a manner that resembles a modern Doss family. Unlike families who are unable to have biologically related offspring, the Jolie-Pitt's also have three biological children, namely Shilo (born in Namibia) and their twins Knox and Vivienne (born in France). Similar to other TNA receiving families, the Jolie-Pitt's opted to use TNA as well as traditional methods to form their family, since many families have a. There is a deliberate equity in the manner they chose to build their international family, which was likely enabled by their personal celebrity status and ability to afford the selective adoption of children from specific sending areas. In the end, their adoptions are a component of their other charity interests such as the creation of Maddox Jolie-Pitt Foundation in 2003 and their various personal and financial contributions to numerous other social

welfare efforts in Asia, Africa, the Middle East as well as populations living in areas of acute political turmoil or devastation by natural disasters (Maddox Jolie-Pitt, 2009). This evidence of extensive and varied acts of charity by the Jolie-Pitt family, in my view, challenge philosopher Judith Lichtenberg's (2009) claim that people are not naturally inclined to give and must be encouraged or enticed, outside of empty rhetoric of obligations, to perform altruistic acts. Instead, the deliberate balance in the adoptee locations of origin exemplifies a type of moral universalism. Most importantly to this study, I note that the public identity of Jolie-Pitt family is based, at least in part, on their private family building decisions. Their private family building decisions then serve as a model for their global group of fans, in as much as they have exemplified contemporary themes circulating within the UK and US around the appropriate scales of moral obligation.

In another example, John Sayles' feature film, 'Casa de los babys' (2004) contains several fictionalized accounts of TNA practices that highlight several key elements of the *Recycled Family* narrative. Sayles' film is an early 21st century story about six anxious, prospective mothers (all played by very well-known actors including Darryl Hannah, Mary Steenburgen and Maggie Gyllenhaal) who await the approval of their adoptions while staying at a residence hotel in the small city of an unnamed Central American country. While awaiting final approval of their paperwork, the film recounts a set of fictitious interpersonal engagements between prospective mothers, the local adoption authorities and the local shopkeepers in the sending country. Sayles' depiction of the mothers, in comparison to other receiving family figurations, is a relatively circumspect rendering of the *Recycled Family* because he interrogates some of the presumptions made by the characters around the circumstances that enable child availability and deliberately exposes the ignorance of the mothers about the interests of the sending country or birth parents.

The narrative perspective dramatizes the process steps, the emotions of the various participants and the family circumstances that are presumed to underlie TNA adoptions. For instance, a single mother is unable to adopt in the US because of her marital status, another has had painful experiences with unsuccessful infertility treatments and another believes that her adoption is preventing a child from remaining in an unloving and financially impoverished environment. Most of these characterizations recount aspects of practice that are familiar to members of the UK and US receiving cultures because these notions are presumed to be typical for all TNA adoption processes. The characterization of each mother contains elements that are both real and fictionalized in ill-defined proportions. For the interrogation of viewers, Sayles characters exemplify cultural assumptions about high socio-economic level of the prospective mothers, a frustration with sending country processes, the inability to have a child through other means and a belief that delays in adoption harm multiple parties.

For instance, one poignant scene features an Anglophonic prospective mother confessing her feelings about the adoption process to a much younger, Spanish-speaking maid. The prospective mother is not aware that most of the maids are themselves birth mothers who have recently relinquished their babies for adoption by the US and UK mothers who stay in the local hotels. During their interaction, the two mothers privately contemplate the multinational process that has afforded them an unlikely physical proximity. Their correspondence to one another is figuratively and literally unintelligible, since the maid understands very little English and the prospective mother speaks no Spanish. In this vignette, Sayles emphasizes the multiple distances between birth and receiving families. He symbolically depicts the isolation and vulnerability of each mother by emphasizing their cultural, economic and linguistic differences.

In the end, their differences leave the infant children a much-desired, mutable object available for reclamation. While the filmmaker speaks to the social benefit of the practice (i.e. the receiving families desirous of a child, the birth mothers who desire increased opportunities for their children and the sending country businesses and authorities who benefit financially from extended parental stays), he also exposes the unique value assigned to international family building and the depiction of children as mobile human resources.

In reality, current practice facts do not support the *Recycled Family* characteristic that TNA is mutual between all adoption parties. In actuality, many of the historic primary sending countries to the US and the UK, such as Guatemala and South Korea, have officially expressed aims to reduce the number of children released for adoption by foreign parents in the future. The stated reasons for this decision are to support economic development in sending countries, to respond to recent increases in cultural acceptance of child adoption within the countries and to end the stigma they perceive as being a 'baby-exporting' country (Onishi, 2008). In spite of evidence that sending countries have decreased the need to permanently relinquish children, the belief that TNA adoption addresses a need for both families as well as sending and receiving countries still persists as a key theme in the UK and US cultural discourse around the *Recycled Family* narrative.

Given that the presumption of mutual benefit may be false, I explore the specific UK and US ideological traditions that suggest non-biological reproduction is utilitarian. I believe that the present day cultural depictions of TNA exemplify of 18th century notions of social utility support the potentially erroneous belief that TNA is a mutually beneficial practice in reality. Both the UK and the US cultures have valued the notion of social utility, but the concept has traditionally been associated with the allocation of material rather than

human resources. In a parallel manner, the popularity of material resource reclamation and reuse has grown considerably in popularity from the 1960s to the present and is now a commonplace theme within the many areas of UK and US cultural discourse. The cultural awareness about ecological conservationism now pervades mainstream UK and US communications in various areas. Now, both the governments of the UK (through the Department for Environment, Food and Rural Affairs) and the US (through the Environmental Protection Agency) have launched initiatives to support the ongoing work of major NGO environmental awareness groups (such as reducereuserecycle.co.uk, the Sierra Club, etc.). Together the government and NGO organizations repeat new variations on the utility theme by sponsoring 'green' campaigns that feature slogans such as 'reduce, reuse and recycle' alongside preventing the waste of valuable natural resources or the neglectful disposal of post-consumer goods.

The increase in cultural interest for the conservation and reuse of either natural or manmade resources, I argue, is similar to a common view of TNA proponents that maintains orphaned children are a human resource. These advocates of TNA believe that children, much like other resources, are in need of adequate care and ought to be granted competent attention by interested parents and by receiving countries (such as the UK and the US) with chronically low population replacement or birth rates. Their essential argument is that TNA mutually satisfies the needs of children as well as receiving families and receiving countries. The descriptors of the TNA adoption process also speak to the notion that children are an allocate-able resource in a different way than is suggested in the figuration of the commodified child within the *Bought Family* narrative, to be discussed later. Seen thusly, birth parents, although frequently anonymous, are characterized as the 'real' parents even though cultural and legal determinants aim to erase that descriptor by suggesting that utilitarian needs

may outweigh biological connections (Miall, 1987, 1996; Modell, 1997; Wegar, 2000).

To illustrate what I believe is an appropriation of the ideology of material reclamation to the creation of the *Recycled Family* narrative, I cite in particular a premise set out by social worker and legal sociologist Madeline Freundlich (2000a, 2000b). Freundlich and others holding this opinion believe that international family building is an effective, expedient, culturally acceptable means to address chronic population and fertility needs. She is quoted as saying 'What is exciting to me is the opportunity to mine the rich data that Children's Rights possesses and use it to forge problem-solving strategies' such as effective family policy (2000a, p. 20). In many respects, this is a pragmatic argument. It is rooted in a measurement of the real and perceived demographic benefits associated with TNA.

The inception of this ideology, however, far precedes modern conservation and stems from 18th century understandings of *social economy*. The variously termed notion of social or cultural economy was initially developed in John Stuart Mill's philosophical work, where he maintains that pleasurable activities such as family creation result in financial gain or benefits. Although Mill did not make the connection between family building and financial increase, the overall relationship he draws between individual activities and broader social good is foundational to the prevailing notion of Freundlich (2000a). In the modern TNA context, TNA proponents suggest that the practice enables global population control, protects child welfare, helps alleviate the burdensome costs of political upheaval, chronic poverty or an absence of adequate social welfare programs for surplus children that is typical of many economically developing sending countries. Applied to TNA, social economists depict receiving families as *Recycled* because child human resources are re-allocated. In a variant of this

core idea, this depiction highlights the transformation of private acts of family building into performances of 'cultural economy,' a term conceived of by legal analyst Sarah Dorow (2006).

Fundamentally, the utilitarian view of TNA emanates from Mill's philosophy of Utilitarianism in a way that can be read as legitimating and increasing the rationality of a fundamentally irrational act of human reproduction in alignment with the theories of Gary Becker (1984) and other microeconomists. In his 1867 volume, Utilitarianism, Mill reflects upon an idea first developed by Jeremy Bentham (in Bentham and La Fleur, 1948) about labour systems and applies it to notions of social production. Mill maintains that the pursuit of pleasure and freedom from pain by members of a civilized culture (defined as individuals with a higher moral capacity) generates moral good for the individual actor. Expanding the scope of reference beyond the individual, he maintains that certain activities, which are both pleasurable and beneficial to others, are more desirable because those activities have greater value and are more beneficial. Mill goes on to posit that membership in society mandates a responsibility to attune to the needs of others, to perform a certain number of culturally beneficial activities and to aid all sections of society and bridge between the moral haves and have-nots.

The rhetoric of the *Recycled Family* has the effect of valorizing receiving families because parents have assumed a personal moral responsibility for children's universal welfare in their private family building choices. The attentiveness to family building choices suggested in this narrative contributes to the increased prevalence of this archetype in the US, although the founding ideology is UK in origin. The key characteristics of the *Recycled Family* draw from Mill's argument that the obligation to perform socially beneficial activities is universal in scale. He writes that 'according to the utilitarian opinion, the end

of human action, is necessarily also the standard of morality; which may accordingly be defined, the rules and precepts for human conduct, by the observance of which an existence such as has been described might be, to the greatest extent possible, secured to all mankind' (1863, p. 17). Although Mill suggests here a potentially limitless scale of benefit for any individual action, the UK and the US interpretation of what Mill would regard as optimal and a measurable scope of benefit is not held uniformly. The national differences in the interpretation of Mill's idea indicates that, at least in reference to the perceived humanitarian benefit of this family building practice, the UK and the US hold different views on the practical scope of moral responsibility.

The parameters of and terms for the scale of utilitarian obligation create a type of landscape where differences in receiving country responses to current practice events divide receiving families in to social virtuous or damaging groups. For instance, the presumed scale of responsibility is a possible explanation for the division in UK and US responses to the temporary halt on Madonna's adoption of a second child from Malawi in 2008. After a successful adoption of David from a state run care facility in 2007, the Malawi government refused to release an infant girl, Chifundo James, because Madonna failed to meet the due process stipulation of an 18-month residency, required by the sending country. Since the potential adoptee was not legally an orphan, the dispute outraged the girl's biological grandmother who had intended to remove the child from state care when she reached six years of age (Itzkoff, 2009). The UK media generally supported the adoption halt, even though Madonna's expressed interest was in alignment with her other extensive humanitarian efforts in that nation (Banda and Clayton, 2009). In contrast, many US reviewers noted that the remaining birth parent and sending country were somehow ungrateful either for Madonna's earlier fundraising efforts in Malawi. These included a music tour and the sponsorship for production of an international

award-winning, short length documentary film entitled *I am because we are* (Rissman, 2008). The film raised public awareness on the conditions in Malawi and helped raise funds over \$100,000 USD for social welfare assistance, with her promise to match every dollar donated to the charitable organizations she established in Malawi.

The UK rhetoric around adoption is that adoption needs can and ought to be prioritized according to proximity. I cite two recent events that support this assertion. First, the UK media response to Madonna's struggles to adopt her second child, initiated when she was still married to UK citizen Guy Ritchie, were overwhelmingly negative. In a BBC 'Newsnight' programme interview with Madonna, interviewer Kirsty Wark pointedly interrogated Madonna for her decision to adopt children from Malawi who were not orphaned (Wark, 2008). Wark raised several common UK-based concerns about the celebrity's failure to address the needs of domestic UK children in favour of needy children from abroad. In her indictment of Madonna's choices, Wark articulates an interpretation of Mill's notion that essentially emphasizes moral sovereignty rather than literal universal responsibility. In a second example of the UK's interpretation of utility, the UK responded to the perceived threat of abuse by private adoption agencies by removing Internet advertisements about international adoption child placement services. In 1999, the BBC News issued a report that the Council Authorities were planning to set up extensive online information about domestic adoptions and publish the pictures of available domestic children to encourage parental interest in domestic adoption. The act of removing information about TNA from readily accessible networks deprives potential parents of alternatives to the cultural depiction issued through the media public television or radio programmes. As evidence of the division in the UK view on use of the internet for adoptions, a 14 October 1999 BBCNews report entitled 'UK Net offers adoption hope' promoted the online publication of

available children's pictures and biographies. Yet, a subsequent 17 January 2001 entitled 'Adoption and the internet' deemed the use of 'cyberspace' to 'advertise' children as potentially damaging for UK domestic adoptions but also suggested that use of the internet in adoption 'helps open up the "market" in overseas adoption, which may be less regulated than in the UK'. This approach to social utility implies an added component of – what I term – a sovereignty of need in which local and national social welfare needs receive a different priority than global needs. I believe, the distinction that the UK culture places between use of the Internet for domestic and intercountry adoptions, counters Mill's original universalist imperatives of moral obligation.

Exploring my interpretation of UK view further, the imposition of a singular ideology (for technology use or children's care) across all TNA jurisdictions enforces a particular memory of ethical responsibility that has little practical benefit to the local society. A graduated scale of moral responsibility, as championed in the UK, implies an interpretation of the universal 'best interests' standard that parenthetically defines needy children as domestic, although domestic and international adoptions draw from a similar pool of underprivileged children and prospective parents (MacClean, 2004). The UK approach draws from both the Lyotardian (1984) notion that modernity implies an obsolescence of grand narratives as well as Radstone and Hodgkin's ideas on memory regimes. Carried out to its logical end, the UK approach to social utility implies that any interpretation of social responsibility that mandates global participation constitutes a type of regime. Therefore, an alternate reading is that the UK view is, in reality, a more authentic reading of Mill's original ideology than the more literal, globally mandated interpretation reflected in the US archetypes of the *Recycled Family*.

Modern philosophical renderings speak to the UK interpretation of Mill's theory and the reasons for the lack of popularity of the *Recycled Family* narrative in the UK. Philosopher Deen Chatterjee (2004) articulates a theory of the ideal scope of moral obligation to the distant needy that contributes to an understanding of difference. Chatterjee notes that a transformation has occurred in political philosophy that colours perceived moral obligations with understandings of distance, which he calls campaigns in which residents of economically developed countries express their 'propensities to give' through direct and personal travel to participate in the humanitarian efforts conducted in foreign nations (2004, p. 3). Chatterjee brings up, but does not conclusively answer, questions about whether these moral obligations can actually bring necessary justice and equality to the needy populations receiving humanitarian assistance. In evaluating this, he looks at the nature and limits of moral duty and impartiality across distance. In the end, Chatterjee insists that the extensions of morality must be 'grounded in claims of practical relevance' (2004, p. 8) to be considered beneficial. His caveat suggests that the receiver of humanitarian aid, in this instance, the TNA sending countries must also perceive a benefit to the adoptions beyond what is suggested by Sayles' depiction of underprivileged birth mothers. Unlike the US, in which benefit is premised on the understanding that the pursuit of individual pleasure initiates a subsidiary social benefit, the UK places a value on the measurable and possibly significant sovereign value of the individual action before the less clearly-defined and more broadly dispersed global benefit of the practice.

An alternative take on Mill's ideology is furthered by secular humanist Noam Chomsky (2002). Chomsky asserts a notion of social responsibility that stems from a literal reading of moral universalism that prevails in US approaches to TNA. His interpretation of the ideal scale of moral responsibility includes the qualification of the equitable allocation of humanitarian efforts. Championing

globally scaled humanitarian efforts, Chomsky articulates a view of universal humanitarianism in which there is a common standard of morality and global evaluation. He further asserts that social responsibility is attached to both individual action as well as individual inaction, opening the possibility that failure to respond to global welfare needs is not only non-beneficial but also socially damaging. Speaking to this global imperative, Chomsky explains that

if we adopt the principle of universality: if an action is right (or wrong) for others, it is right (or wrong) for us. Those who do not rise to the minimal moral level of applying to themselves the standards they apply to others -- more stringent ones, in fact -- plainly cannot be taken seriously when they speak of appropriateness of response; or of right and wrong, good and evil.

Chomsky asserts here that the value of equity is the application of universal morality across scales. However, presuming that it is possible to determine a universal notion of 'right' and 'wrong' across cultures, one possible impact of his suggested universal morality is that only those who are able to engage in actions on a global or universal scale are able to have a say in negotiating those moral standards. Seen this way, this possible outcome threatens to reproduce a similar traditional meta-narrative of global participation within the realm of family building, as first raised by international theorists such as An Na'im (1992) with the ratification of a singularly interpreted 'best interests' of the child UNCRC standard.

From this notion of global family building, questions follow about what equity and justice mandates of expanded social responsibility may serve. Speaking to the political implications of universal morality, Chomsky's vision can also be interpreted in reference to the recently popularized UK *Anti-Social Behaviour Bill* (initiated on 22 May 2003, Session 2002-3 House of Commons and revised on 29 March 2005 in Session 2004-2005) (colloquially termed 'ASBO' laws), primarily aimed at regulating normative standards of interpersonal

engagement. The overall intent of UK government measures is to deter socially irresponsible behaviours of individuals on the grounds that they disrespect social order and personal safety. According to a UK Home Office official statement on the intent of this category of laws, they state that 'Anti-social behaviour doesn't just make life unpleasant. It holds back the regeneration of disadvantaged areas and creates an environment where more serious crime can take hold' (2009). In a modern day rendering of Mill's utilitarian notions, the law infers that the failure of individuals to engage in socially beneficial activities (or at least not socially damaging activities) is detrimental to the actor as well as the surrounding community.

Although the ASBO laws assume enforcement of an evident and tacitly agreed-upon standard of individual behaviour, I want to call attention to the similarity in the perceived imperative for this type of social regulation. I believe that the stated primary imperatives are analogous for the ASBO laws as well as for Chomsky's proposed method of extending universal morality. Both Chomsky's extension and the ASBO social ordinances aim to deter future criminal activities, presumed to necessarily follow from a failure to act in socially responsible ways in the present. The moral imperative is similar in both instances. Even further, the imposition of global responsibility within family construction and individual family decision-making can be viewed as a type of regime in which a particular remembering of others is mandatory. Unlike Chatterjee's view, Chomsky's notion is more extreme and, arguably, unbounded in scope. Chomsky implies that action and inaction have an equal impact on society rather than assessing the likelihood that of that action resulting in a specific benefit for the non-acting party.

The broader social economy afforded by the creation of TNA receiving families can be assessed on the scale of the receiving cultures as well as globally,

depending on the interpretation of the original notions of social utility. Applying these theories to better understand the narrative of the *Recycled Family*, the individual families who receive foreign-born children acquire a social agency that exceeds that of families created through alternative methods, since their local actions convey a broad recursive benefit to receiving and sending societies. Based on this purported heightened value, the social agency of non-celebrity receiving families becomes synonymous with celebrity families. Additionally, the *Recycled Family* scope of benefit is radically different than what is commonly associated with traditional family desires, where the individual pleasure of family building remains contained within the family itself. In a reversal of UK and US cultural norms, the depiction of TNA family building as a reclamation of adoptable children offers families a means to remedy their suffering from infertility or the absence of social responsibility by others.

In general, I argue that the characterization of TNA receiving families as *Recycled* is essentially a memorial act as suggested by Radstone and Hodgkin (2003, 2006). In the UK, the benefit of reclamation has greater value if locally perceptible, whereas in the US there is a greater value and imperative placed on equitable distribution of social benefit across scales. The national variations in the ideologies of utility evidenced in the assignment of various qualities to reclamation are a deciding point for the value of the *Recycled Family*. If valued, the perceived social utility of TNA transforms a family building practice into one that reclaims a family type from social exclusion. This, I posit, contributes to the current landscape of humanitarian social responsibility.

The 'Redemptive' Family

In comparison to the pragmatic elements of the *Recycled Family* narrative, I conceive *Redemptive Family* figuration of TNA receiving families to reflect a super-normative vision of family building in several respects. The *Redemptive Families* depiction is similar to the *Recycled Family*, because both imply extended scopes of concern but the *Redemptive Families*, I posit, have much greater emphasis on the capacity for this practice to irrevocably alter historical fact through transformative collective acts, particularly forgetting or erasure of undesirable aspects. In contrast to the emphasis on the morals of social responsibility and material benefit that infused the previous narrative, the depiction of receiving families as *Redemptive Families* inscribes a decidedly intangible, transfigured quality to the TNA family building processes that manifests in either religious or secular-based version. Throughout this chapter, I examine instances of each of the two narrative forms and the assumptions each makes around the unique transformation of personal and cultural histories of need and traumas of political subjection (such as imperialism) that this practice makes.

Within my exploration of this figuration, I explore the particular family quality of 'caring' and the expanded, and even non-physical, connotation this simple act takes on within this narrative. I especially explore the notion of TNA receiving family 'caring' as powerful enough to erase negative cultural memories in ways not associated with traditional methods of family building. For both secular and religious versions of the *Redemptive Family* narrative, the financial and material realities of adoption are a de-emphasized aspect of kinship development in favour of a purely spiritual, non-physical experience. Adam Pertman's Adoption Nation: How the Adoption Revolution is Transforming America (2000) is only one of several books by adoption advocates that prominently present the intangible benefit of adoption. One of the benefits this implies is that that children's relocation is transformative for families, adoptees

and even receiving cultures, which support socially beneficial activities. For Pertman, the adoption kinship formation is beneficial because it gives children 'the resources and support to feel like earthlings simply seems like the right thing to do, even when it might be emotionally or logistically difficult to accomplish (p. 53). Although Pertman describes child adoption as physically transformative and humanizing experience for the child, he also neglects to acknowledge adoptions that contain elements of extreme physical cost or other situations that hinder process completion.

I draw my understanding of the central concept, 'redemption' in both its secular and religious variations, from the work of UK archaeologist and anthropologist Beverley Butler, whose work emphasizes the agency of this memorial act in her studies of the preservation and reconstruction of the Alexandrian library in Egypt by UNESCO as an ancient heritage site (2003, 2007). Butler's research with the recent conservation efforts of this over 3000 year old symbolic site exposes the various cultural meanings assigned to heritage site 'care'. She looks at the contests involved in determining the terms upon which some cultural experiences are displaced or excluded from display and negotiating among varied transnational memories in the construction of site identity. A recurring theme in Butler's work is her preoccupation with the notion of cultural 'return' to an imagined past through its engagement with material constructs (2003, 2007). Used in reference to the act of family creation, the receipt of a child can be viewed as a way of removing negative memories of actual events and re-placing a culture in an idealized relationship to them.

In commenting on the notion of site 'care', Butler speaks to an aspect of TNA parenting emphasized in the *Redemptive Family* narrative. In the following passage, Butler highlights the elements of 'care' that constitute a form of memory

The human condition is inexorably bound up with the ways we live in particular communities and with particular objects. To have taken care of something or somebody is also reflexive of past actions, constituted by acts of gathering or bringing together and thus ensuring the conditions of collective well-being. Extending the metaphor of heritage as curation to encompass care relates heritage to identity

Drawing together the notions of culture and memory within her definition of care, Butler raises a point also articulated by interdisciplinary scholar Claudia Castaneda (2001) in her theoretical work on the cultural figuration of children as objectified sites of memorialisation. In a similar manner to Butler, Castaneda challenges the idea that the redemptive qualities of children are limited only to families formed by the adoption. Instead, she suggests that the act of adoption redeems not only the child but also the receiving family and the receiving culture more generally, as the viewer of the objectified child. This expansion in the geography of the receiving families beyond the domestic realm is a consistent attribute within the *Redempted Family* narrative in various ways.

To Castaneda (2002), the figuration of the child beyond its physical reality such as location of origin, race, the quality of childcare or other past facts is an essential component of the child's availability for adoption. Castaneda describes the mutability of child adoptees as a form of cultural agency in which the 'potential' of available children that enables the real-life history to be mitigated and re-constituted anew (p. 108). In her view, figuring children as without a past and only 'potential' denies the reality that children have actual biological and personal histories. Castaneda suggests that the appropriation of these children is actually a reproduction of existing social norms by forcing children to occupy a role of complete availability that does not conflict with the receiving culture's interest in forgetting.

Photographs are efficient communicators of the narrative content of the *Redemptive Family* story. Visual representations of pre-adoption circumstances have historically been a critical and powerful means to set an imperative for prospective parents to elect this method of family building. In the process of this communication, the images also convey a particular set of assumptions about what personal and cultural function the practice fulfils. The visual narratology of TNA commonly features myriad images of isolated infants, primarily showing children in birth home environments that are materially substandard. The captions accompanying these photographs often include phrases such as the word 'save', such as the slogan of 'Save the Children' by the US adoption agency Holt International (2007) or 'miracle', as in AdoptAMiracle.com, AdoptionMiracle.org, Littlemiracles.org, Young-family-adoption-miracle.blogspot.com, etc. The images of TNA reinforce the message of adoption as a redemptive act as examined by women's study scholar, Laura Briggs (2000). Briggs examined images published about international adoption in the latter half of the 20th century. She found that the visual presentation of the child adoptee, even by multinational organizations such as the UN included photographs that emphasized relief efforts as saving acts. In a historical review of images of TNA by UNICEF, Save the Children and other multinational charities, Briggs generated a typology of photographs based on a review of institutional discourses that draw upon cultural assumptions about the relationship between domestic redemptive power and the moral and physical deprivation of foreign nations. In her conclusion, Briggs asserts that the pictures mimicked renderings of religious art, depicting physically incapable mothers as Madonna-like figures holding children, likened to the redeemable figure of Christ.

Marianne Hirsch (1999) has conducted closely related studies on the agency of family photographs to make personal kinships culturally accessible in

meaning. In her examination of family photos collected by the kin of Holocaust victims, she found the images to express cultural identity and represent ideals of kinship amongst and across cultural groups. Hirsch teases out elements of meaning that relate to the earlier studies of social and literary critic Roland Barthes. Barthes' theorizes that words and images are 'prose pictures' and 'visual narratives' in which emotions of loss, connection and identity are worked out in personalized and non-artistic engagement. Hirsch takes this to mean that family images bridge between factual reality and the imaginary. Explaining this connection, she states that 'as photography immobilizes the flow of family life into a series of snapshots, it perpetuates familial myths while seeming merely to record actual moments in family history' (1999, p. 7). The photograph generates an 'unspoken network of looking' that includes the family, the culture and the tacit individuals at the imagined location of origin of the adoptee (Hirsch, 1999; Barthes, 1989). In talking about the inexplicable potency of family photos, Hirsch refers to a culturally therapeutic quality of the images. She says 'the familial look, then, is to the look of a subject looking at an object, but a mutual look of a subject looking at an object who is a subject looking (back) at an object ... Familial subjectivity is constructed relationally, and in these relations I am always both self and other (ed), both speaking and looking subject and spoken and looked at object: I am subjected and objectified' (1999, p. 8). The therapy here is that images of families imply culturally familiar types of kinship cohesion among the pictured members, no matter if the individuals are known. The photograph, in containing any one or more of the visual cues for 'familyness', the 'saved' child, or 'precious' find, situates familiar themes of connection within this new family form, rendering a universal familiarity to the photographic subjects.

One compelling aspect of the mythologized *Redemptive Family* narrative is the almost anachronistic notion of return to an imaginary family past. Hirsch talks about the value of generating interpersonal connections within a post-

modern, individualistic cultural environment she states that 'at the end of the twentieth century, the family photograph, widely available as a medium of familial self-presentation in many cultures and subcultures, can reduce the strains of family life by sustaining a imaginary cohesion, even as it exacerbates them by creating images that real families cannot uphold' (p. 7). In 'composite imagetexts', Hirsh argues, the viewer can contest narratives contained within them in ways that disrupt their 'documentary authority' and turn family images into 'powerful weapons of social and attitudinal change' (p. 8) in a more intangible fashion than suggested in the *Recycled Family* narrative.

Although the secular understanding of the term 'redemption' correlates to the Christian religious acceptance of the power of Christ to variously save, liberate or deliver all believers from a condition of sin, the two differ and merit separate consideration. The secular understanding of 'redemption' as applied to TNA receiving families, draws not only from the Christian tradition, but also a diverse group of modern secular humanists whose work informs Butler's study of heritage site reclamation and Hirsch's image studies. The most notable among these scholars includes metaphysical theories of cultural critic Emmanuel Levinas (1998), originally articulated in response to the Holocaust memories, who insists on the connection between physical transcendence and the performative agency of cultural rituals of remembering around great traumas such as the Holocaust. Citing an alternative memory form, geographer David Lowenthal (1985) suggests that transfiguration, even taken to the extreme, as suggested in Sigmund Freud's (1965) psychoanalytic theory of over-preoccupied fetishism, is a form of cultural remembering aimed at preventing a perceived loss of ability. Both the transcendent and fetishized workings of memory included the idea that actual experiences are remembered alternatively and that the manipulation of those memories require a replacement connection between the present and past physical or emotional situations.

To accept TNA receiving families as *Redemptive* also implies that a severe personal trauma has predicated or required parents to consider such an extreme act of family building and accompanying transformation. One area of loss or trauma that is frequently associated with family election to participate in TNA is medical infertility. The comparative research of UK demographer Peter Selman (2003, 2006) established a correlation between the modern pandemic of infertility in receiving countries such as the UK and the US and the statistical increase TNA. Beyond a mere response to infertility and legal allowances, Selman suggested that prospective parents emotions of shame or loss has prompted the global increase in intercountry adoptions.

To explore the findings of Selman's study as an expression of receiving family cultural memories around the loss of a capacity to form a family, I look to the work of memory theorist Paul Connerton (2008) who differentiates seven types of forgetting around personal loss that can form components of a collective response. In his exploration of one response to memories of emotional pain, Connerton identifies the '*forgetting as a humiliated silence*' as a possible culture wide response to a pandemic of personal shame that accompanies the inability to biologically reproduce. Connerton describes this particular working of memory in the following statement:

Perhaps it is paradoxical to speak of such a condition as evidence for a form of forgetting, because occasions of humiliation are so difficult to forget; it is often easier to forget physical pain than to forget humiliation. Yet, few things are more eloquent than a massive silence. And in the collusive silence brought on by a particular kind of collective shame there is detectable both a desire to forget and sometimes the actual effect of forgetting (2009, p. 67).

As Connerton suggests here, it is impossible to draw a direct correlation between the incidence of infertility and interest in TNA on an individual level since individual responses to private memories are oftentimes unexpressed and varied. Yet, I do concur with his suggestion here that a sizable population of prospective parents within a receiving culture that have a collective memory of this loss can result in similar parental responses and an acceptance of a narrative that addresses their shared effort to forget traumas. As a secondary point that Connerton raises above is the inability of parents to overtly express their experiences of shame or humiliation. This collective experience by receiving families may contribute to the cultural interest in valorizing a form of kinship that expresses, even inversely, the negative emotions that may accompany infertility.

In comparison to the secular versions of the *Redemptive Family* narrative, the religious form of this storyline explicitly attributes child and family transfiguration to a divine, non-human action. The religious narratives of redemption are also more evenly represented within the UK and the US culture, since a sizeable portion of adoption agents in both countries are branches of charitable religious groups because of the cultural acceptance for and trust in the intent. For instance, in the UK, the Norwood Jewish Adoption Society is one of the most prominent international adoption agencies. The author C.J. Mahoney speaks to the connection between religion and child adoption at the forward of his book Adopted for Life: The Priority of Adoption for Christian Families and Churches (2009). In this work comprised of religious philosophy and ethnographic testimony, Mahoney details his belief that child adoption is analogous to an individual's spiritual connection to God in which God essentially 'adopts' the believer. Raising a concept of universalism, similar to that found in the *Recycled Family* narrative, Mahoney suggests that the acceptance of divine law by an individual comprises a form of adoption.

Mahoney explicit states, 'if you are a Christian, if you have trusted in Christs' institutionary sacrifice on the cross for your sins, you too have been adopted' (p. 21). Making the adoption of a child and the experience of religious adoption synonymous, Mahoney suggests the practice of TNA is redemptive for families because their family building activities are deliberately beneficial in comparison to natural methods, which may be unplanned or even selfish in nature. This manner of equalizing adoption and the self-transformation required for acceptance of the divine law required for adoption blurs the boundary and physical separation between the adopter and adoptee.

The component of de-materialization pervades the religious understandings of redemption is echoed in the secular versions of the practice. In the ethnographic accounts of family formation in Norway, anthropologist Signe Howell (2003) traces the process referred to as 'kinning', a culturally significant and post-placement adoption ritual. The ritual of 'kinning' is a deliberate set of acts performed by adoptees and receiving parents in which the children physically leave their receiving parents and return to their country of origin for a limited amount of time to 'remember' their location of origin. Although the trek is so strongly encouraged by the culture that it is almost compulsory, the receiving culture states that the aim of the process is the reduction of differences between adoptees and receiving families, since the adoptees return to their receiving family is volitional. She describes aspects of the ritual that she believes reduce the importance of location and expresses her views on the multi-scaled agency of ritual in forging new memories of family connections that parallel traditional norms. She writes,

Although I agree with the adoptive mother quoted initially that 'families with transnational adopted children always remain different in some sense', we have seen that, through a process of kinning and transubstantiation, adoptive parents not only incorporate their children into their own kin but also transform themselves into parents,

thereby negating the separation between the social and the biological that is encountered elsewhere in society (p. 482).

The development of kinship ties with the adoptee through the rituals of placement and social integration parents parallel the 'transubstantiation' ritual of the Eucharist. In this instance, the child's return symbolizes the union of the child's cultural and legal identity with that of the parents and the receiving culture. The culturally mandated act of 'kinning' erases biological differences through a ritual of cultural de-signification and reallocated so that the child's identity of origin becomes proximate to the receiving family. Through this secularized ritual, in addition to becoming a member of a family kinship, the child also enters into a form of kinship with the state by officially gaining citizenship and *belonging* to the receiving country as well. Seeing the process of kinning as an example of the narrative of the *Redemptive Family*, I disagree with Howell's conclusion that 'kinning' is merely a recursive and localized ritual. Instead, I believe this practice is a performed narrative aimed at erasing memories of perceived the biological distance between the adoptive parents themselves and the adoptee. It is an act of scripted and culturally legitimated, if not mandated, forgetting of actual, although emotionally painful, differences.

In the end, the memory work involved in the recounting of the *Redemptive Family* narrative involves a deliberate, and often ritualistic, forgetting or erasure of the issue of physical differences within TNA family kinships. Yet, removing the fact of geographically based differences in receiving families requires a profound transformation to enable complete re-placement of a child into a family. In lieu of rhetoric, visual images narrate the receiving family as a location for desired, mythic relationships and consciously or unconsciously respond to memories of real emotional pain, loss or trauma. This re-positioning thus renders the receiving family culturally recognizable in parts, but not real in

a literal sense. Increased contracting for TNA will, most likely, generate opportunities for cultural members to engage in a greater range of personal experiences of these families. These direct experiences will both challenge narratives as well as force an evolution in the current narratives to fit these new receiving family engagements. With increasing pervasiveness and direct cultural familiarity with TNA receiving families, regarding these pictures of families that are more proximate, the 'familial look' becomes reflexive and spiritually therapeutic.

The Bought Family

The final narrative that I found to be prevalent in my survey of UK and US cultural discourse is depiction of TNA receiving families as wholly commodified or *Bought Families*. To a greater degree than either the *Recycled* or the *Redemptive Family* narratives, the *Bought Family* characterization is more factually accurate. The *Bought Family* narrative emphasizes the literal, material exchanges required for family construction, in comparison to decidedly immaterial quality of the *Redemptive Family* and the moral use of 'resources' associated with the *Recycled Family* narratives. Therefore, the stories that depict TNA families as *Bought*, include more details of the many legal, financial and technological necessities for family placement of a foreign born child. The high level of details about the traditionally intimate areas of family formation that are conveyed contributes to the characterization of receiving families in the *Bought Family* narrative as decidedly modern because of the use of assistance technologies and progressive approach to the exercise of legal interests across national borders.

While the open communication of a high level of factually accurate information is normally regarded as positive, especially within politically liberal cultures such as the UK and US, the openness of the narrative to the mechanics of family building and the high level of exposure to kinship intimacies has not been welcomed equally among these two receiving cultures. Thus, a negative characterization of TNA receiving families as *Bought Families* has pervaded UK cultural discourse to a much greater degree than in the US, where the positive aspects of this narrative have been more prominently featured. Several facts evidence this difference in cultural responses. Most obviously, the terms 'baby trade' (Kapstein, 2003), 'baby sale' and comparable references to the required monetary exchanges in TNA describe the practice in the UK. As proof of the disparity in use of these terms between the two countries, a content analysis of 'baby trade' and 'baby sale' in a LexisNexis database search between 2005 and 2008 with UK and US newswire sources indicated the appearance of those phrases in the headlines of 60 major newswires and headlines in the UK. In comparison, the terms appeared only 36 times in headlines of US newswire services.

Another, less obvious indication that the UK reviewers hold a more negative view on the *Bought Family* narrative than the US critics are the frequent attempts by the UK government to restrict parental access to contracting for reproductive technologies, as first examined in the previous chapter's review of TNA practice economics. Here, I draw attention to the topic of the UK interest in controlling family building more generally, as a foundation for the negative associations with this narrative in the UK culture. The UK concerns around the unrestricted use of reproductive technologies first surfaced when the UK instituted a commission led by moral philosopher Dame Mary Warnock (the Warnock Commission) in 1988 to study the ethics of reproductive technology use. The report issued by the commission in 1985 examined the possibility of

developing 'common sense limits' and 'moral codes' around the use of a category of advanced medical techniques within modern family building practices. The Warnock commission was most preoccupied with controlling the use of advanced tests such as pre-implantation genetic diagnosis (PGD). The primary purpose of this test is to help determine the overall genetic health of embryos created by methods of in-vitro fertilization. In reality, the secondary use of the PGD is different. The test reveals genetic traits that may be used by parents for less ethically and culturally approved ends, such as the creation of 'designer babies' through sex and attribute selection. The technologies required for PGD within various technologically assisted methods are comparable to those required for a TNA child placement, in which parental interests and choices pervade many processes. Comparing across narratives, in opposition to the range of morally responsible choices and the broad scope of benefit presumed for families depicted as *Recycled*, the benefit of *Bought* family expenditures connotes only local benefit. The presumed locality of benefit contributes to the UK notion that families perceived to be *Bought*, lacking the transubstantiated quality present in the *Redemptive* narrative, are also immoral.

The UK critics of TNA negatively depict the *Bought Family* narrative as negative for reasons that the attributes imply not only a moral but also a civil offense. This argument against the *Bought Family* can be read as analogous to denials of sex inequality within sexual harassment charges, oppositions to the legalizing the sex industry and even the denial of remedies to victims of sex crimes. US feminist legal theorist Catherine MacKinnon (1989, 1994, 2007) denounced as artificial the modern day distinction of sex-based activities and actors within the sex industry. MacKinnon argues that these activities are depicted as either negatively commodified or positively non-commodified (1989). She suggests that rhetorical devices that explicitly refer to the material and fiscal exchange value of sex-related activities, such as in the industries of

prostitution and pornography, have the effect of socially devaluing those activities within the US and the UK cultures (1994). Going further, MacKinnon suggests that such rhetoric further renders the acts morally profane in cultural discourse, even if the descriptors themselves are factually accurate. Therefore, she claims that repetition of the descriptive rhetoric within sex-based activities also devalues the moral identity of the actors and associates those populations with the morally compromised exchanges in ways that inaccurately interpret their actual cultural agency (MacKinnon, 2007). MacKinnon's theories of the cultural reception to the material value of the sex trade and the workers offer insight into the cultural denunciation of the TNA practice and the depiction of the receiving families as morally profane in their exercise of rights and contracting abilities.

The depiction of TNA evidenced in the UK cultural repetition of the *Bought Family* narrative engages with a negative understanding of modernity suggested by social theorist Theodor Adorno (1973; 1991). In Adorno's extensive theoretical interrogation of modernity, he comments on the post-modern mass culture industry and questions the content of post-modern cultural discourse. He raises the notion that participation in modernizing activities is actually a traumatic memorial response to the loss of authentic human connection. His view is similar to an opinion expressed by Marilyn Strathern (1992b) on the use of reproductive technologies. Strathern theorizes, similar to Adorno, that technologies such as ART force an evolution in kinships because they destabilize or permanently sever the culturally assumed connection between biology and kinship. In a related point, Adorno asserted that the mass dissemination of definitive and metaphoric meaning around the loss of human connection evokes visceral responses in the consumers of cultural discourse. I believe, in alignment with Adorno's thoughts, that strong emotions such as the aversion to personal human suffering around childlessness (as suggested by Selman, 2006) or

empathy for the depicted plight of remote children and families can victimize cultural consumers of discourse who lack access to authentic family building or substantive political remedy in other jurisdictions.

The complicity of the receiving culture in this project is undeniable which, I believe, confounds the uncomplicated deduction that receiving families are simply morally profane. In fact, receiving families are a cultural production, perpetuated in contradiction with traditional cultural norms pursuant to Franklin and Ragone's (1998) thoughts about the cultural reception of modern reproductive methods. They maintained that reproductive process technologies available to societies at large have the effect of de-familiarising processes but essentially remain culturally specific practices. They exposed two different effects of technology on reproduction, which are 'to emphasize the cultural specificity of meanings, practices, and techniques as part of lived, contested, and negotiated relationship, *and* to transcend the limitations imposed by such a view – for example, its tendencies to overvalorize resistance "experience" and the "authentic voices" (p. 5)'. With this realization, they asserted that the dual effect technology was to generate relationships and to alter normative ideas about what constitutes a valid relationship.

Read together, all these critiques respond to the cultural idea that family kinships, created through contracting, are cultural products. In the mediation of these families through law and technology, modern families have lost the level of authenticity present in families formed through traditional methods. As Theodore Adorno (1991) articulates in his essay, *The Schema of Mass Culture*, 'the commercial character of culture causes the difference between culture and practical life to disappear ... on all sides the border line between culture and empirical reality becomes more and more indistinct' (p. 85). To Adorno, the contracted technologies of reproduction permit an instantaneous, mass repetition

of the individual *Bought Family* narrative. The global repetition of the storyline causes a loss of distinction between real and dramatized family building as well as local and distant families. For example, the up-to-the minute accounts of the “Bragelina” or Madonna family expansions fill all forms of instantaneous news reports in the UK and US. Commenting on the cultural saturation with the details of celebrities’ intimate family building steps, a US-based blogger and adoption and foster care trend analyst Carrie Craft, recently quipped the telling statement, ‘it’s been about 15 seconds since we’ve heard anything about celebrities and adoption’ for about.com, a widely read online adoption resource website. Craft’s comment exemplifies the scale defying intimacy that the culture at-large has with the activities of celebrity parents.

Exemplifying a further aspect of the presumed cultural banality produced by the multi-scaled repetition of the *Bought Family* narrative, I site instances in which the act of TNA family building itself acquires a celebrity identity. As an example of this, the female celebrity and US singer/entertainer Mariah Carey and the UK actor Katy Price (Jordan) both expressed their interest in adopting a foreign child. Rather than stating their interest in TNA directed, they referred to the practice in a self-coined metaphor called to ‘do a Madonna’ (Price, 2009; Daily Mail, 2009). In similar instance, the UK actor Sasha Baron Cohen, in his comedy film *Brüno* (2009), depicts another version of the *Bought Family* modern trauma that blurs the distinction between real and constructed celebrity adoptions. In this film, Cohen portrays a homosexual, Austrian fashion commentator who feigns the adoption of an African child after several failed publicity stunts involving humanitarian work. Brüno’s interest in adoption is initially an attention-getting effort. In a similar manner as Price, Cohen relates his desire for celebrity to that of other well-known adopters by stating ‘Angelina’s got one, Madge’s got one, now Brüno’s got one’ (2009).

Cohen's irreverent film comedy recapitulates several additional tropes that are now commonly associated with the international adoption process and used to characterize receiving families exemplifying the *Bought Family* narrative. Mimicking the adoptions of Madonna, the Brüno character receives a six-month-old African child delivered in suitcase, which the actor opens at an airport baggage carousel within eyesight of aghast and uninformed onlookers. Then, the fictionalized parent appears as a celebrity guest on a Jerry Springer-like celebrity talk show to speak about his feelings of being a 'single parent', in a manner that responds to the high incidence of same-sex parents that have completed international adoptions. Exemplifying the negative cultural association between family building and material exchanges, the Brüno character admits to trading his designer iPod for receipt of the child, an act of devaluation that insults the predominantly Black American members of the audience. In sum, Cohen's film insightfully makes a parody of several, recursive cultural tropes in the *Bought Family* narrative.

As much as the *Brüno* film exemplifies the positive and negative aspects of the *Bought Family* narrative, the real-life responses of ire by celebrities to Cohen's depiction of TNA in *Brüno* evidence a second performative aesthetic of the *Bought Family* narrative. The disputes that ensued the release of this film further exemplify Adorno's critique of modernity to reproduce traumas of authenticity loss and the immorality of material cultures (UKDailyMail, 3 April 2009). In addition to Madonna's critique of his reference to her adoption trials, US comedian Pauly Shore also disputed the content of *Brüno*. Shore directed and starred in a fictionalized documentary ('mockumentary') entitled *Adopted* (2010) that closely resembled Cohen's *Brüno* in comedic approach and narrative tropes. The proximate release of Shore's *Adopted* and Cohen's *Brüno* in 2008 launched a dispute between the comics around which owned the film rights to repeat the commonplace TNA narrative content. Paralleling the actual dispute between the

UK and US couple in the *Kilshaw v. Allen* (2001) court case, the US actor Shore, upset at the public release of *Brüno* prior to his own film, filed a lawsuit against the UK actor Cohen for 'stealing his idea' to parody celebrity intercountry adoptions (paulyshoreadopted.com, 2009). At the time of writing, the court dispute has not yet been resolved but raises questions around the existence of narrative ownership rights for content that reproduced *en mass* in the contemporary cultural discourse of both receiving countries.

In reality, the narrative content of both Cohen and Shores movies were similar renderings of the *Bought Family* narrative in several respects. To begin, Shore's film chronicled his attempt to obtain two adoptees from South Africa, similar to Cohen's receipt of an African child. Additionally, both filmmakers suggest that there are authentic and real elements in their depictions of TNA. On the one hand, Shore stipulates that the genre of his film is a 'mockumentary' (a variation of documentary). On the other hand, Cohen's series of fictionalized comedies, which include *Borat* (2006) and the syndicate television series *Da Ali G Show* (2000), typically feature the authentic responses of uninformed observers to his role playing. Lastly, Shore's film carries the tagline 'first there was Angelina then, there was Madonna and now Pauly', which is virtually identical to Cohen's reference to other celebrity adoptions in *Brüno*.

In comparison to the extreme costumes and personalities typifying Cohen's film characters, Shore's film is more autobiographical and presents his content in a style that heightens the ambiguity between rendered scenes and authentic experiences. The stated aim of Shore's film is 'bringing out the "funny" and avoiding the tragedy that is the reality of the African orphan crisis'. Even though Shore self-proclaims that his film is 'inappropriate' in content, he mixes real and fictional elements within his humour in a manner that deliberately confounds a clear distinction between fiction and reality, as

identified by Strathern (2000). For example, Shore uses cinematographic style that mimics news reporting and works against the stated comic intent of the film. The film features the interactions of the Western celebrity in a small, overcrowded impoverished South African shanty town filled with ill-clad children appear strikingly real and in earnest although Shore actually paid the native children and adults to act as agency representatives and orphaned children co-stars. In his online introductory film comments, Shore paraphrased his satire of the family building activities of celebrities with the descriptor 'start[ing] an instant family' (2009). In the end, his statements fail to indicate to viewers whether Shore initially intended to chronicle a legitimate attempt by the single, male actor to adopt a child from a South African orphanage or merely present a fictional account.

To market his film Shore, the actor is sponsored a contest to 'adopt' an adult fan to reside with him in LA for a week to promote release of his film, calling up a rendering of adoption that prevails in the *Redemptive Family* quality of spiritual transubstantiation. The comic stated that a substantive aim of this contest was to raise public awareness about the South African political situation, a country estimated to have 1.2 million children designated by the government as OVC (Orphaned and Vulnerable Children) from parental deaths due to HIV/AIDS illnesses. He states an aim to help the chronically large number of homeless older children, a category of children who are less likely to be adopted than newborns. Arguably, Shore's depiction places the elements of cultural commentary, authentic humanitarianism and humour in greater proximity than other examples of this narrative. Yet, the distinction Shore suggests between the true and made-up elements mandates that viewers read the introductory marketing copy on the film. Without knowledge of the filmmakers statement, the film uncritically recapitulates, in extreme detail, the trauma of

TNA and, in so doing, re-inscribes definitive elements of the *Bought Family* narrative.

Both Cohen and Shore's fictionalized works aim to interrogate the repeated narratives associated with *Bought Families* with the use of humour. In comparison with documentaries of actual TNA processes, such as Alpert and O'Neil's *Siberian Adoption Story* (2005), which recounted the real-life trials and decision making frustrations of two US families adopting Russian children, the use of humour suggests that high levels of cultural familiarity already exist about this narrative. Unlike the primarily informational content in the *Siberian* documentary, the inclusion of unaware observers in the comedic films challenges an easy discernment between the constructed and the natural. Finally, the conflict of narratives about the practice between the UK and US actors mimics a decontextualized cultural discourse that is a reproduction of the content of the actual discourse.

The difference in the particular interpretations of the *Bought Family* narrative in the UK and the US, I argue, exposes differences pertaining to the cultural identity of each country. Seen this way, the US emphasis on the positive aspects of the *Bought Family* can be seen to emanate from national imaginaries that assign a positive value to collective memories of individualism, as asserted by Benedict Anderson's (1991) notion of imaged communities. This also includes a very particular reading of Adam Smith's (1937, first published 1776) notions of wealth capital management within family building rather than socialist models of communal personal wealth accrual. As an alternative to Adorno's presumption that modern mass culture perpetuates trauma, the democratic reproductive choice and personal liberties in TNA can be viewed as an exercise of personal liberties and of the democratic process around family building. Family law analyst Janet L. Dolgin (1999) maintains that a critical feature of

modern families is the fact that they are generated by choice rather than biological imperatives. Dolgin holds the view that family development choices to varying degrees are enabled by the law and technological advances (1999, p. 15). Thus, the ability to contract increases access to processes that enables alternative family building that may go outside of traditional norms of age, sex and race.

In a more theoretical rendering of this narrative, sociologist and feminist theorist Charis Thompson (2005) suggests that narrative characterizations are an essential part of what she terms an 'ontological choreography' (p. 8) in which meaning is organized for the consumption of broader populations. Speaking to manner in which knowledge of complex and progressive topics are communicated, Thompson maintains that methods of technologically assisted reproduction are a 'dynamic coordination of the technical, scientific, kinship, gender, emotional, legal, political and financial aspects of ART clinics' and a vital expression of the benefit of modernity (p. 8). Depicting sites of family building as a means of connecting rather than severing the material and intangible practice elements, the narrative itself gains agency as a point of facilitation and responsibility for a choreography of disparate and culturally opposing elements. Thompson suggests then a transcendent material quality to *Bought Families* that force a rewriting of a well-known cultural story around material moral depravity and a transformation of the materiality of modern reproductive methods to generate lasting human kinships.

Intertextualities of Discourse and the Recursive Memories of Receiving Families and Cultures

Borrowing an element of an idea set forth by postcolonial theorist Ania Loomba (1998) that cultural impositions are mutually constitutive and not unidirectional in flow, I explore in this short section the receiving family agency that both informs narrative content as well as recursively constructs receiving cultures. There is much more that could be said about receiving families as containers of memories that span across geographic scales and temporal divides. In my exploration of TNA receiving family narratives, I suggested that receiving families are dynamic places or sites of which these memorial narratives are exemplified, worked out or challenged. I suggest here that the relationship between receiving families and receiving cultures is a product of a discourse between collective and private family memories. In the end, I suggest that memories are the DNA of TNA. I argue that narratives are a substitute for biological connections and also, through an 'erasure' of geographic difference, connect families and cultures to one another.

Focusing on the 'work' of the family in cultural remembering, receiving families become sites where cultural traumas of imperialist political histories, unwanted shames of infertility and fears of technology are located. In this locating process, the families themselves are objectified and memorialized by the receiving culture in a representation of biological reproduction. As Susanne Küchler (1991) suggests, in her essay 'The Place of Memory,' receiving families are memorial sites that have similar characteristics of a monument. Küchler writes that 'the monument was conceived as a surviving remainder of a culture's experience against whose loss it provided some protection: present perceptions of the monument blur the distinction between the left-over of experience and

what is found as rubbish' (p. 61). In this analogy, I suggest that TNA receiving families also mix elements of the sacred and profane in their memorialisation of traditional family norms as well as modernity. This idea is contained in an early 1951 comment by social worker Dorothy Hutchinson in a manual on pre-placement clinical family studies. Hutchinson states that 'although there is no such thing as a perfect home, there is such a thing as a normal family' (AdoptionHistoryProject, 2008). Both of Hutchinson's comments imply that individual families are responsible for developing their own memories about cultural norms.

Exemplifying this notion, I cite the proliferation of family memory performances that carve out new ways of remembering. This may include reclamation of forgotten aspects of the receiving cultural heritage as suggested by Signe Howell in 'kinning' or the popularity of receiving family 'heritage camps' and 'heritage tours' such as Colorado Heritage Camps, in which families join to educate themselves about and celebrate the cultural and ethnic heritage of their adopted child. Through a variety of memory defying acts, TNA families transform their family building activities into locations where cultural norms of kinship can be selectively and recursively forgotten.

One transgressive family memory act is suggested in Paul Connerton's (2009) assertion that forgetting is an agent for identity construction and cultural preservation. Connerton's claim challenges a common public understanding in the UK and US that forgetting is a form of memory failure. Specific forgetting of facts, conducted between receiving families and cultures in this case, constitutes a vital aspect of discursive process of memory negotiation in Connerton's view. Based on observations of patterns of family remembering in cultures of the South Pacific, Connerton breaks down forgetting into seven different types that speak to the recursive quality of receiving family agency. Unlike the norm in the UK

and the US, the absence of knowledge about ancestors was typical within the culture. He noted instead that their

knowledge about kinship stretches outwards into degrees of siblingship rather than backwards to predecessors; it is, as it were, horizontal rather than vertical. It is not so much a retention of relatedness as rather a creation of relatedness between those who were previously unrelated. The crucial precipitant of this type of kinship, and the characteristic form of remembering and forgetting attendant upon it, is the high degree of mobility' (2008, p. 63)

In his paraphrasing of vertical memorialization as a 'forgetting that is constitutive in the formation of a new identity', Connerton suggests that individuals or cultures prescriptively forget past mistakes in order to re-define present identity, in a process of identity management. Similar to cultures where absence of knowledge about ancestors is commonplace, the absence of family is a critical aspect of the intercountry adoptee experience that receiving families must address.

Enriching the notion of receiving family agency, I suggest that cultures are complicit in receiving family agency around memorialisation of difference. Based on a review of the content of the three primary receiving family narratives, I found evidence of a spatial component within each family memory that indirectly expressed a different approach to remedying family geographic difference. In theorizing on the best means to communicate geographic difference in cultures with conflicted political histories, cultural geographers Alison Blunt and Cheryl McEwan (2002) suggest that grand cultural narratives (Lyotard, 1985), such as postcolonialism, can be represented more effectively in geographical terms even though modern, former imperialist cultures tend to consider relationships to the past in exclusively temporal terms. In a reversal of postcolonial flows of resources, it is the receiving families who are colonized and whose identity is changed by a 'geographically dispersed contestation of colonial

power and knowledge' (p. 3). With this premise, Blunt and McEwan essentially argue, in a parallel manner to Loomba's (1998) notion of complicit and recursive flows of power acquiescence, that 'geographical knowledges and imaginations produced in Britain and its empire were mutually constituted' (p.4). They go on to speak about the subjective and creative quality of geographic knowledge. They state that 'the mobile locations of both colonial and postcolonial subjects transcend a spatial binary between home and away' (p. 4). I broadly take from their statement that the accusation of geographic difference, while applied to the colonized subject unwittingly, also re-characterizes the culture from which that knowledge prevails.

Expressing my claim that receiving families are transnational in another way, Laura Briggs (2000) talks about the manner in which narrative images of international adoption erode the boundaries between the production of foreign and 'domestic' families. Briggs asserts that the caring and relational act of family building itself is critical to the blending of public and private family lives. She states:

These nested rhetorics, embracing at once the foreign and 'domestic' – in both senses of the word – give lie to any simple division of private and public. Or rather, they rely on simultaneously separating and confounding them, turning private, familial nurturance into a political, world-straddling, liberal-internationalist act (2000, p. 190).

She suggests that blending elements of foreign and domestic within images of receiving families transgresses the normal geographic confines of traditional family memories. She suggests that the narrative representation is responsible for allowing receiving families to occupy a different scale than families formed domestically. Reading across Brigg's and Blunt and McEwan's conjoined affirmation of transformative effect families have on normative notions of an occupation that is not actively or directly sought out but is more passive in

quality, I suggest that family building alters the memory of receiving country economic or political colonization of sending countries. In this sense, individual family creation is not only act of assuming the 'foreign' into the families but also creating completely new *neo-colonies* out of receiving families that remembers but does not exactly replicate a political past.

Conclusion: Narrative, not Biology, is the DNA of TNA

As this cultural review of TNA discourse has suggested, the act of family creation is a complex and recursive memorial process. The family building activities of both UK and US receiving families are, at once, repeated performances of very specific cultural memories, which script notions of family kinship, as well as recursive transgressions of those cultural characterizations through private acts of decision making agency. These notions both directly speak to Marilyn Strathern's (2005) conclusions about the 'unexpected' ability of modern kinships to re-write the supposedly immutable traditions of family relationships. In alignment with Strathern's notion that legally constructed relationships are no longer merely responsive and normative, but also capable of inciting broader social transformation, I have attempted in this chapter to set out a more enriched view of the input that geographic difference has on the cultural characterization of TNA receiving families. To accomplish this, I surveyed representative case studies within various forms of informative and popular discourse on the TNA practice that are currently circulating in the UK and the US. In a departure from the approaches to cultural analysis taken by Barbara Yngvesson (2006, p.521) and others, who have premised receiving family analysis on the notion that legally constructed families are a 'series of legal fictions' that propose adoption is 'clean break' from a biological past, I investigated the content of those adoptive family narratives in greater detail.

In the end, I found that receiving cultures normalize, through narrative constructs, the formation of seemingly ‘unnatural’ personal connections, such as those developed between geographically and circumstantially disparate child adoptees and their receiving parents. In particular, the story-laden versions of the practice are ‘a valuable prism through which to view not only non-traditional families, but all families. Indeed, by understanding adoption, we lay the groundwork for the understanding of all families’ (Informed Adoption Advocates, 2008). My review of the substantive content about the TNA practice published in a variety of informational reports, critiques of the practice, portrayals of family building and notable litigations gave an insight into the recurring themes within cultural perspectives on this family building method. I also evaluated the contribution of rhetoric and factual accuracy in the communication of family values. Far from being ancillary, I found that the presentation of facts to be as important as content of the accounts in shaping the overall public reception to the practice. As insightfully stated by a 10 year-old adoptee in a quote published only by the US-based adoption advocacy NGO Celebrate Adoption, ‘It is not adoption that is the problem, but what everyone thinks about it’ (2008). In concurrence, I believe that public opinion about TNA is based less in fact than views that are informed by other culturally mediated experiences.

I presumed also that the narrative representations of receiving families within the UK and the US media communicated cultural characterizations that are comprised not only of explicitly stated legal or cultural ideologies about families but also memorial responses to past individual or cultural experiences. Following an analysis of the most frequently recurring themes in accounts about receiving families in UK and US cultural discourse, I identified the three descriptive family narratives of the *Recycled Family*, the *Redemptive Family*,

and the *Bought Family*. The *Recycled Family* narrative articulates, in an updated form, a utilitarian notion of equitable morality and cultural economy from the 18th century. The *Redemptive Family* story, both the secular as well as the religions versions, emphasize the transubstantiated and transcendent possibilities for family building. Lastly, the positive and negative renderings of the *Bought Family* narrative exemplify the perceived duality of modernity, which enables an expansion of transformative social benefit as well as a de-humanizing commodification of humans and human relationships. Most importantly, I evaluated the recursive input and performances of receiving family and cultures as forms of memorial 'work' (following the theories of Radstone and Hodgkins, 2003). I found, in my narrative analysis of cultural media, several commonalities among all depictions and characterizations. None are entirely accurate, but all contain elements and interpretations specific cultural histories, fears and collective losses. In the end, I believe that all TNA narratives are a composite of culturally distinct interpretations of UK and US memories about family norms. I have concluded that these narratives, rather than distinguishing receiving families from families formed through other methods, ultimately prevent a severance of human connections by maintaining links between past events and present realities as well as between receiving families and their resident cultures.

Following this, I maintain that the UK and US cultures are actively negotiating the inclusion of receiving families into current discourses such as about transnational populations, instead of reproducing normative notions about acceptable family geographic differences. I believe, however, that further research attention is required to link the study of receiving families to related memory or transnational studies. More analysis is required to prove that receiving families are particular monument to past political and personal traumas that speaks to the real 'productivity of this space of erasure' (Yngesson,

2006, p. 521). At present, this study of the receiving family narratives went so far as to indicate that receiving families are more than spaces where 'biology is both cancelled and discovered anew as a site of surface (dis)connection, and continuity is produced over time in a series of returns' (Yngesson, 2006, p. 521). Therefore, I posit that TNA adoption is a dynamic engagement with family ideals as filtered through private and collective (or cultural) memories of the family building process. These experiences are worked out within memory and expressed through narratives that contain not one but many forms of memory manipulation in recursive connections, neglectful forgetting and deliberate erasures. If we can then conceive of these various disputes and expressions of ambivalence with memory responses, perhaps the sophistication of legal and cultural understandings may evolve to be truly responsive to the changing family landscape of the UK and the US.

In some respects, it is odd to focus comparative analysis on the cultural representations of receiving families as articulations of a discourse in the cultural and private memories out of which they are constructed. Such an insistence on the potency of memories, implies that kinship geography is actually an evaluation of pre-kinship geography, since most TNA family building must be planned, and evaluated, long before children receive placement. Speaking to the temporally confounding notion of family memories, I cite a comment by actor and international adopter, Brad Pitt, projecting the influence his children may have on his future acting roles. The actor stated 'My thoughts these days are, "Oh, my God, what did I do? What are they going to see from the past?" It definitely colours what I'll approach in the future. I'll try to be a little bit more mature about my decisions' (2008). In this, Pitt speaks to both the personal as well as the cultural imperatives that informed his family building decisions. In this quote, his presumed scope of moral responsibility and his relationship to time are both unclearly expressed. I suggest that TNA receiving families, such as

those formed by the Jolie-Pitt couple, are valuable containers for new forms of memories and sites of cultural engagement in which complex issues of interpreted pasts are worked out and transgressed. As stated by Butler (2007a), 'we discover the broader principle that modern heritage and modern memory share a common origin in conflict and loss. Monuments, museums and memorials are inseparable from debates about nostalgia and authenticity, and growing desires for a sense of origins' (p. 2). Reading across disciplines, her statements about the group evidence of painful intimate memories align with Selman's (2000) conclusion that recent the increase in TNA contracting is a direct response to the chronic incidence of medical infertility within receiving countries.

Unlike differences that are purely tangible and very apparent, memory is an unashamedly biased set of actions that requires a more nuanced assessment of spatial aspects of the TNA practice within future research than has been previously evidenced. Such an assessment of memory is instrumental on several scales. On one hand, such studies are an opportunity to explore alternate characterizations that better reference the cultural and legal parameters in which these families must operate. On the other hand, as Pitt's comment suggests, receiving families also have a capacity to not just resist cultural memories, but also actually lead an evolutionary transformation in the current ways of remembering and characterizing families. Pitt suggests the private interplay between work of individual memory experiences and the desire to have particular kinds of group memories in the future. Although this chapter only initiated an exploration of this fascinating project of re-narrating modern kinship, it has shown avenues for explaining cultural responses to these families and working out our ambivalence in order to optimize law and policy, or at least better understand the limits of the law in satisfying that aim.

Chapter 8

Conclusion: TNA Receiving Family Growth and the Necessary Evolution in Global Family Rights

This four-part comparative study of transnational child adoptions by UK and US families has examined the political, legal, economic and cultural geographies of a single, recently popularized, global family creation practice. On a conceptual level, this work has sought to introduce consideration of international reproductive practices into contemporary geographic evaluations of family political economies, the legal economies of international family processes and various components in the human geography of international family building methods. By embedding quantitative practice analyses within qualitative assessments of the practice, I have reviewed to assess the national and even international placement trends, costs and regulatory requirements that govern local child placement processes and shape global TNA practice patterns. Given that recordkeeping practices on family building practices have traditionally been poor and improved only recently with increases in the stringency of child protection measures, this research is an effort to initiate a comprehensive exploration of national differences in family development patterns to be continued within more specific future research. In this fruitful initial examination, I have pioneered study of the TNA practice in areas including synergies in the social welfare policies of child sending as well as child receiving nations and the growing economic parity of reproductive methods available to UK and US parents.

The fundamental contribution of this work, however, is its response to the need for research on the growing category of globalized reproductive practices and the impact that increased contracting for globalized methods has had on the composition of receiving family populations. In an effort to evaluate actual practice changes across multiple scales, this examination presumes little other than that TNA generates a national and international family category of receiving families. To verify this original premise, I have investigated characteristics that are common to receiving families through a study of UK and US TNA family building processes. This process comparison revealed that the individual members of UK and US receiving families maintain different types of civic affiliations with their country of residence. This characteristic, which I have termed *civic diversity*, is higher in TNA receiving families than families built through domestic methods. Conversely, the *civic diversity* of TNA receiving family members is analogous to families routinely referred to as 'transnational', a similarity that motivated me to use this descriptor over the alternatives 'intercountry' or 'international' for adoption. Yet, my review of literature on families and family building practice contained scant evaluation of civic diversity as a primary family attribute. The absence of research on this obvious attribute is primarily because differences in political identity are not recognized under the law as a material and are presumed in some instances to be potentially discriminatory. In contrast with existing works, I develop the argument throughout this project that geographic differences, expressed through characteristics such as *civic diversity*, substantively differentiate receiving families on global and national levels.

In setting forth this notion that receiving families constitute a distinct global family population, I have challenged several explicit and implied suppositions about the TNA practice and the category of parents who have elected to pursue this method of reproduction over domestic or global

alternatives. Based on a study of evidence obtained from various sources, I found inaccuracies in the general practice assumptions as well as cultural depictions of receiving families circulating within the UK and the US. The dominant conceptualizations of the TNA practice that now pervade UK and US cultural discourse, while varied in interpretive tone, appeared to differentiate receiving families from those formed via alternative means without a detailed, factual verification of claims. Addressing the absence of factual analysis, this study looked into several of the commonly held and often contradictory notions about TNA that have, I argue, fuelled the ambivalent in cultural reception of the method and confounded the assignment of set of practice merits that is consistent across all scales. The approach of this research challenged two especially widespread presumptions. The first, furthered by several academic and policy analysts, presumed that TNA receiving families are a statistically insignificant population that merits no more than ancillary research consideration and the second, implied within public discourse content, is that TNA and child adoption are very prevalent throughout all receiving nations.

I found that neither presumption was entirely valid. Most notably, the absence of quantitative examinations resulted in a failure to accurately convey the global size of the receiving family population. Similarly, the lack of study of the reproductive governance and reproductive economies did not correctly indicate the actual requirements that multiple scales of regulation and economic demands placed on parents at the local level. In these concluding remarks, I first highlight the key practical and theoretical needs served by this project's original analyses. I then present an overview of my key research findings, and finally, I detail the specific insights that this work affords to forthcoming policy development needs in the area of international reproductive process regulation.

Launching into Uncharted Research Territories of Globalized Family Building Practices

With the intent to follow research parameters that would best support a fact-based analysis of cross-border adoptions, I confined this project to a comparison of routine costs and legal requirements for a normal child placement with a UK or US family. Overall, I found the UK and US TNA practices to be very similar, although the survey surfaced several striking differences in the processes of each national family group. On one hand, a high level of practice parity exists because the current TNA governance is global. The multinational law mandates that all families contracting for TNA, such as those residing in the UK and the US, must comply with the universalized 1989 UNCRC standards for decision-making regarding children's lives. Even further, nations with families involved in this practice must also follow social welfare authority protocols and monitoring protocols as set out in the 1993 Hague Convention. On the other hand, the current method of regulation does permit extensive variations in national policy interpretation of these standards. Despite the similarities in the UK and US national processes that these measures have created, the Hague accord permits adherent nations to interpret the UNCRC standards for child welfare differently and does not strictly impose that nations hold a particular policy stance on the TNA practice itself. Therefore, despite the historic similarities between the UK and the US traditions of family law and lengths of TNA practice history, a closer comparison of routine requirements indicated that the processes of UK and US parents were likely to be substantially different when measured in allowable process types and costs. Most interestingly, the divergences in family practices, evidenced in this comparison of the UK and the US, may also extend to receiving families residing in primary receiving countries not included in this research to suggest avenues for further investigation.

The substantive analysis in each chapter linked to an existing area of geographic enquiry, but due to the absence of geographic research at the time of the project launch that specifically dealt with global reproductive economies and governance, I drew creatively from closely related studies situated within other areas to establish this new exploration into the geographies of human reproduction. One such topic of research that required a broad reading of literature was my assessment of the value assigned by individual receiving nations to the intra-familial differences in receiving families. My comparative study of the receiving family population indicated that geographic differences in the locations of origin and in the civic affiliations of family members were a typical and obvious feature of this family type. This project's varied examination of characteristics that indicate qualities of geographic difference distinguishes this research from the existing works of legal analysts (Bartholet, 1993; Dolgin, 1999; Dorow, 2006), social theorists (Yngvesson, 2007; Simon and Roorda, 2007; Howell, 2003), children's rights advocates and social workers (e.g. Freundlich, 2000b; Modell, 1997; Roby and Ilfe, 2007), and cross-disciplinary analysts (Edwards, 2000; Edwards and Strathern, 2000; Strathern, 2005; Carsten, 2000) who have studied qualities that characterize modern kinships.

To further distinguish this study from related works, I specifically grounded the primary qualitative review of each chapter with findings from quantitative assessments of practice trend data, rules of law, and estimated cost ranges. Using this embedded mixed research methodology, I investigated receiving family demographic characteristics, the variations in interpretation of the legal standard or the creation of knowledge economies that are critical to family level decision-making. Looking across the entire project, I have drawn together the evaluations of each chapter – a statistical review of receiving family populations in Chapter 4, a formal review of law in Chapter 5 and a cost typology analysis of processes in Chapter 6 – to inform a final evaluation of

cultural practice depictions and modern family building in the discourse review in Chapter 7. My attentive review of TNA across multiple practice scales and the use of a grounded approach to evaluating practice components have improved the overall robustness of my research findings and, I believe, add to this project's practical merit, in contrast to practice reviews that are limited in conceptual or geographic scale.

In my survey of TNA receiving family and adoptee populations in Chapter 4, I began with a statistical review of the size of the global TNA practice and routine flows of child immigration. Through a longitudinal comparison of UK and US data, I was able to further Selman's work (2000) comparing TNA trends across several key European receiving nations and the US. My two-nation comparison revealed dramatic differences in the total annual numbers of children placed with UK and US families, which I verified in a successive review of the policy history. I found that the full entry of the UK and US into the Hague terms corresponded to drops in the annual rates of child immigration for TNA, based on a longitudinal survey of child entry levels from the initial signing in 1990 until the full entry of the US in 2008. I also concluded that national compliance with the UNCRC and Hague caused a near universalization in the processes of adoptee naturalization for several receiving nations, as evidenced in the fact that the estimated naturalization cost ranges (as detailed in cost typology of Chapter 6) and regulatory requirements for US and UK adoptions were virtually identical. I found that adoptee naturalization, although completed prior placement finalization, did not change the characteristic of intra-familial civic differences between the naturalized adoptees and their receiving families, since children may maintain ties to their birth country, heritage identity and ethnic affiliations by law.

My assessment was that civic diversity is definitive, universal and immutable demographic characteristic of TNA receiving families. The civic diversity that characterizes TNA receiving families is not currently a component of families formed through alternative domestic or international reproductive methods, although this may change if citizenship interests are granted to foetuses or gametes. Based on the universalization of processes under the multinational accords, I posited that national receiving family populations contribute to an international category of receiving families. The international group of receiving families is similar to and still distinguishable from other types of transnational families. This similarity is especially apparent when comparing receiving families with those that are customarily characterized by analogous differences in civic affiliation across family members and are driven by similar processes such as immigration or economic or political ties to the children or parents' country of origin (Bryceson and Vourela, 2002; Blunt, 2007). This learning supports a compelling argument for including TNA receiving families in the larger conceptual category of transnational families. Stated simply, this study argued that TNA receiving families are a type of transnational family albeit with a different configuration from that commonly associated with this term.

My suggestion about expanding the understanding of transnational families beyond current norms innovatively expands ongoing work in political geography generally and transnational families specifically within related areas of cultural geography. To explore the notion of a more diversified category of transnational families, however, I believe more research is required to compare the patterns of transnational family creation across primary receiving nations, assessed variously as a global group or sub-groups broken down into regional categories, average annual rates, cost ranges, tenure or according to other indices. The diversity in the relationship of receiving family members to their

receiving country of residence, in my view, contests the national sovereignty interests of receiving countries and TNA placements help satisfy population replacement while influencing the costs associated with social welfare obligations. Before research in these areas can move forward, I raise two preliminary considerations. The first is that the datasets on all international reproductive practices must be centralized to allow for comprehensive multinational family building practice analysis. The second is that the attribute of civic diversity among family members must be legally recognized as a material and non-discriminatory difference. In all, my interest in exploring the non-recognition of geographic difference as a material essentially formed the basis of my evaluations of both the current method of governance and the cost and evaluative economies of the practice.

To assess these two areas, I reviewed current methods of global TNA practice governance specifically in Chapter 5 and reproductive cost and evaluative economies in Chapter 6. The formally styled review of TNA practice governance in Chapter 5 analysed national policy interpretations of the global rules of law and child placement decision making standards. In the end, I argued that although the UNCRC 'best interests' child placement standard effectively protects a wide range of children's interests, the Hague Convention protocols fails to prevent conflicts in the multiply scaled areas of law that currently regulate transnational family building. Ultimately, I determined that the level of national variations permitted under the current global law actually hinder the exercise of parental interests required for reproductive contracting and, therefore, may hinder child protection by limiting parental access to the practice.

I took an approach to legal analysis that differed considerably from the majority of reviews of TNA governance. The majority of existing works focused

exclusively on the aspects of global humanitarianism and children's' rights, based upon the presumption that child welfare protections are the sole intent of TNA. Presuming the protection of children's interests ought to be sole measure for legal efficacy, many analysts have concluded that the current law was also an effective means to regulate practices of intercountry reproduction (Lind and Johansson, 2009; Matthews, 2005; Stasiulis, 2002). Their approach, in my view, is flawed for two reasons. First, it does not allow for the possibility that jurisdictional variations can impede satisfaction of the global intent of the law by failing to protect the interests of 'vulnerable' child population at the same time as the sovereign interests of sending or receiving nations. Second, I insist here that global TNA reproductive practice governance is not purely humanitarian and must be evaluated in reference to the practical efficacy of the law to protect the varied interests of contracting parties and authorities. This calls forth what Carling, et al. (2002) and Sargent (2003) have described as, 'evidence based' policy in a fundamental next step in the evolution of reproductive governance. The inclusion of practical standards within evaluations of legal efficacy also implies the possibility of developing scales for legal standards to reduce interpretive variations between private values and general norms (Rodgers and Hanson, 1974).

To satisfy this project's intent to practically assess the merits of the current practice regulation, I elected to focus my evaluation on evidence that speaks to the efficacy of the governing instruments towards fulfilment of their stated aims. I found variations in national TNA processes to persist, in spite of the universalization of process standards and designation of children's legal interests. Many legal analysts have suggested that interpretive variations have failed to halt children's welfare violations. While I concur with this point, I further argue that national variations in interpretation of the child welfare standards also affect other areas of the practice. The failure of the law to serve

the interests of adoption parties outside children has received little attention from legal analysis. With the aim to investigate the impact policy variations at several TNA scales, I took process and cost variations to indicate profound national differences in the perceived merit and intent of the globalized practice. I then suggested that national policy interpretations of the multinational standards dictate parents' level of practice knowledge and exercise of civil liberties interests in ways that affect their access to this method.

In considering alternatives to the current TNA regulation, I turned to evaluate the notion of geographic difference within an assessment of receiving family legal geographies. There was very little consideration of family law within legal geography from which to base my analysis, therefore I drew from studies on emerging areas of cross-border family policy development (Katz, et al., 2000; Freeman, 2003) and broader notions within legal pluralism on the need to maintain equity in the practical allocation of rights by multinational organizations (Santos, 1991; Silbey, 1996). Reading across these themes in a review of legislative history and court rulings, I concluded the need to clearly ascertain a practice intent that would address the varied interests of parties to this global reproductive method. I found that multinational and national laws fail to consistently recognize family interests as protectable within the family development processes. In sum, the range of interests pertaining to family development – family privacy, civil liberties, rights to a family, etc. – are weaker and not in balance with the interests currently extended to children. Viewing the current law as reproductive governance through a 'rights regime' system (Sunstein, 1990), I then argued that the recognition of parental rights, as global contracting agents (Epstein, 1995; Posner, 1987) and sovereign citizens of receiving or sending countries, is a necessary precursor for ensuring equity among interested TNA parties. The global protection of a range of interests in reproductive governance must, I argue, go beyond children's welfare in order to

be efficacious. This premise speaks to the potential inequity posed by furthering a global humanitarian 'rights regime' that practically serves parties recognized solely at the global level.

My argument for recognition of the global legal and economic agency of receiving families draws from the work of various legal economists (Becker, 1981) who have commented upon the unique behaviours of families around altruistic acts of international family building. In Chapter 6, I reviewed the routine costs and economic decision making that is routinely involved in completing an intercountry child placement. This evaluation was comprised of three primary sections. In the initial section, I compared the costs of the TNA practice to those of other reproductive alternatives commonly available to parents residing in the UK and the US. Then, I analysed the variable costs of primary TNA processes in each national context and finally, I reviewed the evaluative economies required of parents to manage reproductive expense levels. Fundamentally, I found that differences in the UK and the US bundling of process costs into *baseline* required sums, *operational* elective areas, and *preferential* optional service cost types resulted in different national family behaviours around reproductive decision making. Drawing from studies of TNA cost information accessibility, I found that the level of process cost transparency was a critical enabler for decision-making at the family level (Kline, et al 2006). Viewing parental access to specific reproductive costs to constitute a reproductive knowledge economies, these findings indicated that parental ability to opt for this practice was connected to government policies that control access to process knowledge and information technologies. Although the notion that modern human reproductive practices now form a global service market has not been welcomed by many, my examination affirmed studies of Zelizer (1981, 1985) and Spar (2006; 2007) among others that champion that reality. This statement is based on the assumption that prospective parents have the medical

or financial ability to consider a range of alternative methods other than TNA. If so, my study indicated that the actual incidence of TNA adoptions correlates to national policies of process and cost bundling. I concluded, in alignment with Becker's (1981, 2004) theories and later works with others (Becker and Murphy, 1988, 2000; Becker and Barro, 1988), that observable variations in TNA contracting for this method require a certain level of parental access to economically valuable practice information in ways that mimic non-reproductive family economic activities. Unlike many critics of this notion (Hirschman, 1991), I suggested that the pervasiveness of economies within reproduction merits the broader recognition of notions such as 'partial commodification' (Radin, 1996). I also concluded that more detailed comparative analysis across methods will be necessary to create a more equitable system of governing the accessible range of domestic and international reproductive practices.

Informed by the detailed evaluation of the current regulatory and economic processes of receiving families based on the initial survey of population changes, I then turned in Chapter 7 to interrogate the veracity of the dominant depictions of the TNA practice that recur in UK and US cultural discourse. After considering delivery and content of representative media accounts about TNA, I found apparent differences in the cultural popularity of family construction narratives across these two countries. My analysis of the discourse content of receiving family depictions caused me to segment the recurring stories into *Recycled*, *Redemptive* and *Bought* family themes. Although the UK and US share general cultural understandings about the nature of family kinships, evidenced in the similarity of the narrative content, I found that UK and US cultural preferences for specific narratives to differ considerably. The difference in narrative preference was most evident in my review of biases in narrative delivery.

My review of the three cultural narratives supported a highly original consideration of cultural memories and processes of cultural production around families (Katz, 2004; Franklin, 1997; Franklin and MacKinnon, 2001). Borrowing concepts from new studies in cultural memory, I reviewed TNA family narratives as exemplifying memory 'regimes', cultural responses to painful emotions and fascinating links between space, time and kinship building (Butler, 2007; Radstone and Hodgkin, 2003; Connerton, 2009). This innovative study of the geographies of modern kinship was a departure from related works by anthropologists and sociologists (Strathern, 2005; Howell, 2003; Castaneda, 2002). This chapter suggested several compelling avenues for combining geography and memory studies to explore the possible causes for the pandemics of infertility evidenced in several economically developed nations (Sellman, 2000) and evaluate idealized scopes of social responsibility (Chomsky and Foucault, 2006).

Drawing Together the Themes to Foretell the Future of TNA Family Building

In many respects, the lingering cultural ambivalence around TNA can be viewed as purely semiotic, especially since many aspects of the practice are globally standardized. Modern TNA practice is frequently presumed to have a universalized set of required processes, following the terms of the Hague Convention accord, but maintains a global aim to uphold the 'best interests' of children, as stated in the UNCRC. Despite practice standardization, the terms used to describe TNA still vary across receiving cultures (such as the descriptors 'baby trade', 'gift', 'saviour' or 'sale'). Each descriptor conveys a very distinct and culturally specific interpretation of the essential components of kinship permanence, global identity (Turner, 2008), civic affiliation (Leiter, et al., 2006; Lister, 2007b) and the market worth of children or reproductive practices

(Zelizer, 1985). Yet, the UK and US cultures assign different values to reproductive practices, as expressed in tangible cost ranges as well as the presumed scope of responsibility for children's welfare. More importantly, I found the TNA practice intent remains ill-defined to the extent that the ultimate efficacy of the laws is repeatedly called into question by interested parties (Calzada and Del Pino, 2008). I venture to maintain that there is an absence of a universal accord on the primary intent of the TNA practice. There is neither an acceptable hierarchy of meanings from which to develop reproductive policies nor a consensus on whether TNA is localized family development alternative, a social obligation, or a socially beneficial practice. These variations, I believe, may contribute to the perpetuation of cultural depictions of TNA that are incongruent across practice areas.

Based on ongoing reports of illegal child immigrations and continued irregularities in family building process with countries sending children for placement with UK and the US families, I believe that the failure to determine the intent of the modern TNA practice exacts a high cost in terms of human life. I measure harm not only in terms of the harm to children victimized in trafficking activities and other offenses but also in relationship to the impact on the group of prospective parents who are prevented from contracting for TNA due to regulatory complexities or onerous and unregulated practice cost fluctuations, as predicted by Selman (2007) and Bartholet and Hall (2007). Already, with the increased oversight of global TNA practices supported with the full entry of the US in 2008 into terms the Hague Convention, the de-regulatory rush to the 'goldmine' of foreign children abroad may soon be drawing to an end as the number of children placed annually with US parents has begun to drop. The question remains as to whether, as Masson suggested in 2001, the various benefits of the practice outweigh the social and familial costs and other 'problems' that must be met to surmount an increasingly stringent and

varied cadre of regulatory hurdles. Although this question is relatively straightforward, there are several considerations of family and individual geography that will require further attention before this can be resolved.

One such point is that the individual costs or burdens of citizenship interests, which now pass onto to naturalized adoptees automatically may become increasingly elective as more aggressive repatriation schemes result in the emigration of a certain portion of adoptees. In such a case, I borrow a notion from Shachar and Hirschl (2007) to suggest that national efforts may turn increasingly towards an amortization of social welfare cost burdens over the lifespan of adoptees who are granted - and may maintain civic in perpetuity - responsibilities to both sending as well as receiving countries under the current UNCRC terms. If so, then children's citizenship interests may imply a predictably dual cost responsibility and duty to serve the interests of multiple countries, thus re-instating the notion that adoptee civic affiliation has diverse sentimental and economic value. Only in this view of children's civic diversity, TNA adoptees hold a time-dependent or 'deferred' political value for receiving families and nations that will fluctuate, based on children's abilities - and later desires - to fulfil a range of civic responsibilities across practice scales (Waldby and Mitchell, 2006, 184). This notion of variable civic potential is now typical of the value assigned to transferred biological materials but demands more policymaking consideration as the majority of interest bearing children adopted around the enactment of the UNCRC and Hague measures begin to mature.

Perhaps, the extreme volume of detail divulged in cultural reports of difficulties in the TNA processes of celebrities may have the effect of exorcising the cultural desire for unlimited reproductive contracting abilities. For example, I cite the recent news media reports of MP David Miliband's decision to adopt a second foreign child in the US, taking advantage of his naturalized wife's ability

to adopt outside of the UK procedures (Cockroft, 2007), or rumours that the 'Brangelina' couple aim to adopt a child whose location of origin differs from the rest of their already diverse family. Yet, I believe that cultural overexposure to the TNA practice will more likely slow, but not totally halt, the practice entirely. Hopefully, the implementation of the Hague accords will increase family-level access to accurate and detailed practice information. Better quality information may, in turn, cause a reduction in media reporting biases and prevent the perpetuation of inaccurate assessments about receiving families or the value of the practice. On a concrete level, the knowledge economies generated by accessible information may foster greater reflection on the escalating financial costs of all modern reproductive methods. The costs of modern reproduction can also be measured on cultural and conceptual levels, especially when children's global interests overshadow the national protections for the civil liberties and contracting licenses of prospective parents and families.

My hope, above all, is that this project will initiate further reflection on the legal economies of modern reproductive practices. Given the culturally sensitive nature of demystifying the processes and costs of recently normalized modern international reproductive practices, this study constitutes an initial effort to suggest avenues for geographic research on the global governance of various reproductive practices. Now, I feel, is an opportune time to initiate a more detailed interrogation of multinational policies that influence the formation of receiving families. This will be facilitated by increased access to high quality records on global family building from which to develop responsive and equitable policy for sending and receiving family populations (Santos, 1987, 1995).

This study has been a timely start to much-needed wider programmes of research on the current state of cross-border family governance. Given the

rapidity with which globalized family building practices have become widely accessible, it is necessary to give more attention to the manner through which individual and family rights are globally allocated, interpreted and protected. The proliferation of multi-scaled family building, along with growth in other categories of transnational families, is already altering the family composition of a global group of primary TNA receiving countries. Based on the findings of this study, I advocate protecting a more explicit range of interests for parties to the TNA practice, recognizing that international reproduction requires maintenance of parental access to several rapidly evolving and technologically enabled practices. This likely will involve a re-configuration of the law in a way that balances the interests of children with those of the prospective parents, forgetting for the moment the interests of biological parents, sending countries and receiving countries that are recognized to varying degrees in the current configuration of law. Beyond serving as an essential foundation for the informed development of social policies, I believe geographically informed approaches to policy amendment will be an increasingly necessary component of reproductive governance reformulation at all scales.

Appendix 1

United Nations Convention on the Rights of the Child (1989)

Adopted and opened for signature, ratification and accession by General Assembly resolution
44/25 of 20 November 1989
Entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom, Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,
Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as

any other child permanently or temporarily deprived of his or her family environment for any reason , as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic

review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention.^{1/} The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights
 - (a) Within two years of the entry into force of the Convention for the State Party concerned;
 - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations

organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

1/ The General Assembly, in its resolution 50/155 of 21 December 1995, approved the amendment to article 43, paragraph 2, of the Convention on the Rights of the Child, replacing the word "ten" with the word "eighteen". The amendment entered into force on 18 November 2002 when it had been accepted by a two-thirds majority of the States parties (128 out of 191).

Appendix 2

Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption

(Concluded 29 May 1993)

The States signatory to the present Convention,

Recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognising that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the *United Nations Convention on the Rights of the Child*, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions -

CHAPTER I - SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are -

- a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law;
- b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

(1) The Convention shall apply where a child habitually resident in one Contracting State ("the State of origin") has been, is being, or is to be moved to another Contracting State ("the receiving State") either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

(2) The Convention covers only adoptions which create a permanent parent-child relationship.

Article 3

The Convention ceases to apply if the agreements mentioned in Article 17, sub-paragraph c, have not been given before the child attains the age of eighteen years.

CHAPTER II - REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

Article 4

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin -

- a) have established that the child is adoptable;

- b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;
- c) have ensured that
 - (1) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
 - (2) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
 - (3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
 - (4) the consent of the mother, where required, has been given only after the birth of the child;and
- d) have ensured, having regard to the age and degree of maturity of the child, that
 - (1) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,
 - (2) consideration has been given to the child's wishes and opinions,
 - (3) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
 - (4) such consent has not been induced by payment or compensation of any kind.

Article 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State -

- a) have determined that the prospective adoptive parents are eligible and suited to adopt;
 - b) have ensured that the prospective adoptive parents have been counselled as may be necessary;
- and
- c) have determined that the child is or will be authorised to enter and reside permanently in that State.

CHAPTER III - CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 6

- (1) A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.
- (2) Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

- (1) Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.
- (2) They shall take directly all appropriate measures to -
 - a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
 - b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 8

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 9

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to -

- a)* collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- b)* facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- c)* promote the development of adoption counselling and post-adoption services in their States;
- d)* provide each other with general evaluation reports about experience with intercountry adoption;
- e)* reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall -

- a)* pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- b)* be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- c)* be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 12

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities of both States have authorised it to do so.

Article 13

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

CHAPTER IV - PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

Article 14

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

Article 15

- (1) If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.
- (2) It shall transmit the report to the Central Authority of the State of origin.

Article 16

- (1) If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall -
 - a)* prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
 - b)* give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;
 - c)* ensure that consents have been obtained in accordance with Article 4; and
 - d)* determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

(2) It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

Article 17

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if -

- a) the Central Authority of that State has ensured that the prospective adoptive parents agree;
- b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;
- c) the Central Authorities of both States have agreed that the adoption may proceed; and
- d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving State.

Article 18

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

Article 19

- (1) The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.
- (2) The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.
- (3) If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

Article 20

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 21

- (1) Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular -
 - a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;
 - b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;
 - c) as a last resort, to arrange the return of the child, if his or her interests so require.
- (2) Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

Article 22

- (1) The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.
- (2) Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who -

- a)* meet the requirements of integrity, professional competence, experience and accountability of that State; and
 - b)* are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.
- (3) A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.
- (4) Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 1.
- (5) Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance with paragraph 1.

CHAPTER V - RECOGNITION AND EFFECTS OF THE ADOPTION

Article 23

- (1) An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognised by operation of law in the other Contracting States. The certificate shall specify when and by whom the agreements under Article 17, sub-paragraph *c)*, were given.
- (2) Each Contracting State shall, at the time of signature, ratification, acceptance, approval or accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

Article 24

The recognition of an adoption may be refused in a Contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Article 25

Any Contracting State may declare to the depositary of the Convention that it will not be bound under this Convention to recognise adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

Article 26

- (1) The recognition of an adoption includes recognition of
- a)* the legal parent-child relationship between the child and his or her adoptive parents;
 - b)* parental responsibility of the adoptive parents for the child;
 - c)* the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.
- (2) In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognised, rights equivalent to those resulting from adoptions having this effect in each such State.
- (3) The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognises the adoption.

Article 27

- (1) Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognises the adoption under the Convention, be converted into an adoption having such an effect -
- a)* if the law of the receiving State so permits; and
 - b)* if the consents referred to in Article 4, sub-paragraphs *c* and *d*, have been or are given for the purpose of such an adoption.
- (2) Article 23 applies to the decision converting the adoption.

CHAPTER VI - GENERAL PROVISIONS

Article 28

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

Article 29

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs *a)* to *c)*, and Article 5, sub-paragraph *a)*, have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

Article 30

- (1) The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.
- (2) They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

Article 31

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 32

- (1) No one shall derive improper financial or other gain from an activity related to an intercountry adoption.
- (2) Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.
- (3) The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 33

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

Article 34

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

Article 35

The competent authorities of the Contracting States shall act expeditiously in the process of adoption.

Article 36

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units -

- a)* any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- b)* any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;
- c)* any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorised to act in the relevant territorial unit;
- d)* any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant territorial unit.

Article 37

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 38

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

Article 39

(1) The Convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States Parties to such instrument.

(2) Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

Article 40

No reservation to the Convention shall be permitted.

Article 41

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

Article 42

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.

CHAPTER VII - FINAL CLAUSES

Article 43

(1) The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Seventeenth Session and by the other States which participated in that Session.

(2) It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

Article 44

(1) Any other State may accede to the Convention after it has entered into force in accordance with Article 46, paragraph 1.

(2) The instrument of accession shall be deposited with the depositary.

(3) Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph *b*) of Article 48. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

Article 45

(1) If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in the Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

(2) Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.

(3) If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.

Article 46

(1) The Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third instrument of ratification, acceptance or approval referred to in Article 43.

(2) Thereafter the Convention shall enter into force -

a) for each State ratifying, accepting or approving it subsequently, or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;

b) for a territorial unit to which the Convention has been extended in conformity with Article 45, on the first day of the month following the expiration of three months after the notification referred to in that Article.

Article 47

(1) A State Party to the Convention may denounce it by a notification in writing addressed to the depositary.

(2) The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

Article 48

The depositary shall notify the States Members of the Hague Conference on Private International Law, the other States which participated in the Seventeenth Session and the States which have acceded in accordance with Article 44, of the following -

a) the signatures, ratifications, acceptances and approvals referred to in Article 43;

b) the accessions and objections raised to accessions referred to in Article 44;

c) the date on which the Convention enters into force in accordance with Article 46;

d) the declarations and designations referred to in Articles 22, 23, 25 and 45;

e) the agreements referred to in Article 39;

f) the denunciations referred to in Article 47.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention. Done at The Hague, on the 29th day of May 1993, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Seventeenth Session and to each of the other States which participated in that Session.

Appendix 3

COUNTRY STATUS TABLE FOR THE HAGUE CONVENTION OF 29 MAY 1993 ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

Entry into force: 1-V-1995

Members of the Organisation

States	S ¹	R/A/Su ²	Type ³	EIF ⁴	Ext ⁵	Auth ⁶	Res/D/N ⁷
Albania	12-IX-2000	12-IX-2000	R	1-I-2001		<u>1</u>	
Australia	25-VIII-1998	25-VIII-1998	R	1-XII-1998		<u>2</u>	<u>D</u>
Austria	18-XII-1998	19-V-1999	R	1-IX-1999		<u>3</u>	<u>D</u>
Belarus	10-XII-1997	17-VII-2003	R	1-XI-2003		<u>2</u>	<u>D</u>
Belgium	27-I-1999	26-V-2005	R	1-IX-2005		<u>3</u>	<u>D</u>
Brazil	29-V-1993	10-III-1999	R	1-VII-1999		<u>2</u>	<u>D</u>
Bulgaria	27-II-2001	15-V-2002	R	1-IX-2002		<u>3</u>	<u>D</u>
Canada	12-IV-1994	19-XII-1996	R	1-IV-1997	<u>13</u>	<u>3</u>	<u>D</u>
Chile	13-VII-1999	13-VII-1999	R	1-XI-1999		<u>3</u>	
China, People's Republic of	30-XI-2000	16-IX-2005	R	1-I-2006		<u>3</u>	<u>D</u>
Costa Rica	29-V-1993	30-X-1995	R	1-II-1996		<u>2</u>	
Cyprus	17-XI-1994	20-II-1995	R	1-VI-1995		<u>2</u>	<u>D</u>
Czech Republic	1-XII-1999	11-II-2000	R	1-VI-2000		<u>2</u>	<u>N</u>
Denmark	2-VII-1997	2-VII-1997	R	1-XI-1997	<u>2</u>	<u>3</u>	<u>D</u>
Ecuador	3-V-1994	7-IX-1995	R	1-I-1996		<u>3</u>	

Estonia		22-II-2002	A	1-VI-2002		<u>2</u>	
Finland	19-IV-1994	27-III-1997	R	1-VII-1997		<u>3</u>	
France	5-IV-1995	30-VI-1998	R	1-X-1998		<u>3</u>	<u>D</u>
Georgia		9-IV-1999	A	1-VIII-1999		<u>1</u>	
Germany	7-XI-1997	22-XI-2001	R	1-III-2002		<u>3</u>	<u>D</u>
Greece	2-IX-2009	2-IX-2009	R	1-I-2010		<u>2</u>	<u>D</u>
Hungary	25-V-2004	6-IV-2005	R	1-VIII-2005		<u>2</u>	<u>D</u>
Iceland		17-I-2000	A	1-V-2000		<u>2</u>	
India	9-I-2003	6-VI-2003	R	1-X-2003		<u>1</u>	
Ireland	19-VI-1996	28-VII-2010	R	1-XI-2010		<u>3</u>	
Israel	2-XI-1993	3-II-1999	R	1-VI-1999		<u>1</u>	
Italy	11-XII-1995	18-I-2000	R	1-V-2000		<u>2</u>	<u>D</u>
Latvia	29-V-2002	9-VIII-2002	R	1-XII-2002		<u>2</u>	<u>D</u>
Lithuania		29-IV-1998	A	1-VIII-1998		<u>1</u>	
Luxembourg	6-VI-1995	5-VII-2002	R	1-XI-2002		<u>3</u>	<u>D</u>
Malta		13-X-2004	A	1-II-2005		<u>1</u>	
Mauritius		28-IX-1998	A	1-I-1999		<u>1</u>	
Mexico	29-V-1993	14-IX-1994	R	1-V-1995		<u>2</u>	<u>D</u>
Monaco		29-VI-1999	A	1-X-1999		<u>2</u>	
Netherlands	5-XII-1993	26-VI-1998	R	1-X-1998		<u>2</u>	<u>N</u>
New Zealand		18-IX-1998	A	1-I-1999		<u>2</u>	

Norway	20-V-1996	25-IX-1997	R	1-I-1998		<u>5</u>	<u>D</u>
Panama	15-VI-1999	29-IX-1999	R	1-I-2000		<u>2</u>	<u>D</u>
Paraguay		13-V-1998	A	1-IX-1998		<u>1</u>	
Peru	16-XI-1994	14-IX-1995	R	1-I-1996		<u>2</u>	<u>D</u>
Philippines	17-VII-1995	2-VII-1996	R	1-XI-1996		<u>2</u>	
Poland	12-VI-1995	12-VI-1995	R	1-X-1995		<u>3</u>	<u>D</u>
Portugal	26-VIII-1999	19-III-2004	R	1-VII-2004		<u>3</u>	<u>D</u>
Romania	29-V-1993	28-XII-1994	R	1-V-1995		<u>1</u>	
Russian Federation	7-IX-2000						
Slovakia	1-VI-1999	6-VI-2001	R	1-X-2001		<u>2</u>	
Slovenia	24-I-2002	24-I-2002	R	1-V-2002		<u>1</u>	
South Africa		21-VIII-2003	A	1-XII-2003		<u>1</u>	
Spain	27-III-1995	11-VII-1995	R	1-XI-1995		<u>3</u>	<u>D</u>
Sri Lanka	24-V-1994	23-I-1995	R	1-V-1995		<u>2</u>	<u>D</u>
Sweden	10-X-1996	28-V-1997	R	1-IX-1997		<u>3</u>	<u>D</u>
Switzerland	16-I-1995	24-IX-2002	R	1-I-2003		<u>2</u>	<u>D</u>
The former Yugoslav Republic of Macedonia		23-XII-2008	A	1-IV-2009		<u>2</u>	
Turkey	5-XII-2001	27-V-2004	R	1-IX-2004		<u>2</u>	
United Kingdom of Great Britain and Northern Ireland	12-I-1994	27-II-2003	R	1-VI-2003	<u>1</u>	<u>4</u>	<u>D,N</u>
United States of America	31-III-1994	12-XII-2007	R	1-IV-2008		<u>3</u>	<u>D</u>
Uruguay	1-IX-1993	3-XII-2003	R	1-IV-2004		<u>1</u>	

Venezuela	10-I-1997	10-I-1997	R	1-V-1997		1	D
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Non-Member States of the Organisation

States	S¹	R/A/Su²	Type³	EIF⁴	Ext⁵	Auth⁶	Res/D/N⁷
Andorra		3-I-1997	A	1-V-1997		3	D
Armenia		1-III-2007	A	1-VI-2007		1	D
Azerbaijan		22-VI-2004	A	1-X-2004		2	D
Belize		20-XII-2005	A	1-IV-2006		1	
Bolivia	10-XI-2000	12-III-2002	R	1-VII-2002		1	D,Res
Burkina Faso	19-IV-1994	11-I-1996	R	1-V-1996		1	D
Burundi		15-X-1998	A	1-II-1999		1	
Cambodia		6-IV-2007	A**	1-VIII-2007		1	
Cape Verde		4-IX-2009	A	1-I-2010		2	
Colombia	1-IX-1993	13-VII-1998	R	1-XI-1998		5	D
Cuba		20-II-2007	A	1-VI-2007		2	
Dominican Republic		22-XI-2006	A	1-III-2007		2	
El Salvador	21-XI-1996	17-XI-1998	R	1-III-1999		2	D
Guatemala		26-XI-2002	A**	1-III-2003		2	
Guinea		21-X-2003	A**	1-II-2004		1	
Haiti	2-III-2011						
Kazakhstan		9-VII-2010	A	1-XI-2010		2	
Kenya		12-II-2007	A	1-VI-2007		2	
Liechtenstein		26-I-2009	A	1-V-2009		1	D
Madagascar	12-V-2004	12-V-2004	R	1-IX-2004		1	
Mali		2-V-2006	A	1-IX-2006		1	
Moldova, Republic of		10-IV-1998	A	1-VIII-1998		2	
Mongolia		25-IV-2000	A	1-VIII-2000		1	
Nepal	28-IV-2009						
San Marino		6-X-2004	A	1-II-2005		2	
Seychelles		26-VI-2008	A	1-X-2008		1	
Thailand	29-IV-2004	29-IV-2004	R	1-VIII-2004		3	
Togo		12-X-2009	A	1-II-2010		2	
Viet Nam	7-XII-2010						

United Kingdom of Great Britain and Northern Ireland: Declarations Notifications

Articles [25,45]

Territorial Units in the United Kingdom to which the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption applies (Article 45): England, Wales, Scotland and Northern Ireland. Pursuant to Article 25 of the Convention, the United Kingdom declares that it will not be bound to recognise any agreements made under Article 39, paragraph 2.

Note:

Under the adoption laws of England and Wales, Scotland and Northern Ireland accredited bodies and local authorities (in the case of Northern Ireland, Health and Social Services Trusts) perform the functions under article 9(a) to (c) of the Convention; and provide the facilities and carry out the functions in respect of Articles 15(1) and 16(1) to enable Convention adoptions and adoptions effected by Convention adoption orders to be made. In addition local authorities (in the case of Northern Ireland, Health and Social Services Trusts) are responsible for the duties under Article 21.

United States of America: Declarations

Articles [22(2)]

The United States declares that the provisions of Articles 1 through 39 of the Convention are not self-executing.

The United States declares, pursuant to Article 22(2), that in the United States the Central Authority functions under Articles 15-21 may also be performed by bodies or persons meeting the requirements of Articles 22(2) a) and b). Such bodies or persons will be subject to federal law and regulations implementing the Convention as well as state licensing and other laws and regulations applicable to providers of adoption services. The performance of Central Authority functions by such approved adoption service providers would be subject to the supervision of the competent federal and state authorities in the United States.

Appendix 4

United Kingdom - accredited bodies for Intercountry Child Adoptions (pursuant to HCCH Art. 13)

Childlink, London SW4 7NQ
The Doncaster Adoption and Family Welfare Society Ltd, Doncaster DN1 2UE
Norwood Jewish Adoption Society, Middlesex HA7 4HB
The Nugent Care Society, St Helens WA11 9RJ
Parents and Children Together, Reading RG1 4ZR
Scottish Adoption Association Ltd, Edinburgh EH6 6JA
Intercountry Adoption Centre
Hertfordshire EN5 5SJ

Accredited in England and Northern Ireland only / Accrédité uniquement en Angleterre et en Irlande du Nord:

SSAFA - Forces Help
Specialist Adoption Worker LONDON SE1 2LP

Accredited on the Isle of Man only:

Isle of Man Adoption Service

3 Albany lane

Douglas, Isle of Man, IM23NS

email: catriona.morris@iomas.im

Public Authority for the Isle of Man carrying out duties imposed under the Convention: the Department of Social Care (Social services Division).

Public authorities carrying out duties imposed under the Convention:

The relevant public authority will normally be the one in which the prospective adopter or the child to be adopted resides. In cases where the public authority is not where the prospective adopter has his home, the authority must obtain a written report from that public authority.

Throughout England:

London Borough of Barking and Dagenham

London Borough of Barnet Family Placements Team

Barnsley Metropolitan Borough Council Social Services Department

Bedfordshire County Council Social Services Department

Bexley Council - Children's Placement Service

North Permanent Placement Team - Silvermere Centre

South Permanent Placement Team - Blackburn with Darwen Council Social Services Department

Blackpool Borough Council Housing & Social Services Department

Bolton Metropolitan Borough Council Social Services Department

Bournemouth Borough Council, The Family Placement Team

Bracknell Forest Borough Council Bracknell Family Placement Team
 City of Bradford Metropolitan Council, Social Services Department Adoption Team
 London Borough of Brent
 Brighton and Hove Council Permanence and Concurrency Team
 Bristol City Council Social Services Department
 London Borough of Bromley
 Bromley Social Services & Housing
 Buckinghamshire County Council
 Aylesbury Vale District Family Placement Team
 Family Placement Team Well Street Centre
 Chiltern District Family Placement Team
 Wycombe District Family Placement Team Social Services Department
 Bury Metropolitan Borough Council Personal and Community Services
 Metropolitan Borough of Calderdale Adoption & Permanence Team
 Calderdale Social Services
 Cambridgeshire County Council Inter-Country Adoption:
 London Borough of Camden, The Permanent Placements Team
 Cheshire County Council Fostering and Adoption
 Corporation of London Community Services Department
 Cornwall County Council
 Adoption and Family Finding Unit Coventry City Council
 London Borough of Croydon Social Services Department
 Cumbria County Council Darlington Borough Council Adoption Team
 Gladstone Street Social Services Department
 Derby City Council Social Services Department
 Derbyshire County Council Social Services Department
 South Hams and Teignbridge districts - Devon Social Services,
 Exeter, East Devon, Mid Devon districts - Devon Social Services
 North Devon, Torridge and West Devon districts - Devon Social Services
 Doncaster Metropolitan Borough Council Social Services Department
 Dorset County Council
 Dudley Metropolitan Borough Council Social Services Department
 Durham County Council Social Services Department
 East Sussex County Council Adoption and Fostering Team
 London Borough of Enfield Social Services Office
 Essex County Council Central Adoption Team
 Gateshead Metropolitan Borough Council Permanence Team
 Gloucestershire County Council Social Services Department
 London Borough of Greenwich Adoption Team
 London Borough of Hackney Social Services Department
 Halton Borough Council

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